

/* 42 USC 300x-21 follows. Section 300x-24 requires that HIV early intervention be provided in areas within states with the need therefore. */

Block Grants for Prevention and Treatment of Substance Abuse

300x-21. Formula grants to States

(a) In general. For the purpose described in subsection (b), the Secretary, acting through the Center for Substance Abuse Treatment, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 1933 [42 USC 300x-33]. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State submits to the Secretary an application in accordance with section 1932 [42 USC 300x-32].

(b) Authorized activities. A funding agreement for a grant under subsection (a) is that, subject to section 1931 [42 USC 300x-31], the State involved will expend the grant only for the purpose of planning, carrying out, and evaluating activities to prevent and treat substance abuse and for related activities authorized in section 1924 [42 USC 300x-24].

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1921, as added July 10, 1992, P. L. 102-321, Title II, 202, 106 Stat. 389.)

300x-22. Certain allocations

(a) Allocations regarding alcohol and other drugs. A funding agreement for a grant under section 1921 [42 USC 300x-21] is that, in expending the grant, the State involved will expend:

(1) not less than 35 percent for prevention and treatment activities regarding alcohol; and

(2) not less than 35 percent for prevention and treatment activities regarding other drugs.

(b) Allocation regarding primary prevention programs. A funding agreement for a grant under section 1921 [42 USC 300x-21] is that, in expending the grant, the State involved:

(1) will expend not less than 20 percent for programs for individuals who do not require treatment for substance abuse,

which programs:

(A) educate and counsel the individuals on such abuse; and

(B) provide for activities to reduce the risk of such abuse by the individuals;

(2) will, in carrying out paragraph (1):

(A) give priority to programs for populations that are at risk of developing a pattern of such abuse; and

(B) ensure that programs receiving priority under subparagraph (A) develop community-based strategies for the prevention of such abuse, including strategies to discourage the use of alcoholic beverages and tobacco products by individuals to whom it is unlawful to sell or distribute such beverages or products.

(c) Allocations regarding women.(1) In general. Subject to paragraph (2), a funding agreement for a grant under section 1921 [42 USC 300x-21] for a fiscal year is that:

(A) in the case of a grant for fiscal year 1993, the State involved will expend not less than 5 percent of the grant to increase (relative to fiscal year 1992) the availability of treatment services designed for pregnant women and women with dependent children (either by establishing new programs or expanding the capacity of existing programs);

(B) in the case of a grant for fiscal year 1994, the State will expend not less than 5 percent of the grant to so increase (relative to fiscal year 1993) the availability of such services for such women; and

(C) in the case of a grant for any subsequent fiscal year, the State will expend for such services for such women not less than an amount equal to the amount expended by the State for fiscal year 1994.

(2) Waiver. (A) Upon the request of a State, the Secretary may provide to the State a waiver of all or part of the requirement established in paragraph (1) if the Secretary determines that the State is providing an adequate level of treatments services for women described in such paragraph, as indicated by a comparison of the number of such women seeking the services with the availability in the State of the

services.

(B) The Secretary shall approve or deny a request for a waiver under subparagraph (A) not later than 120 days after the date on which the request is made.

(C) Any waiver provided by the Secretary under subparagraph (A) shall be applicable only to the fiscal year involved.

(3) Childcare and prenatal care. A funding agreement for a grant under section 1921 [42 USC 300x-21] for a State is that each entity providing treatment services with amounts reserved under paragraph (1) by the State will, directly or through arrangements with other public or nonprofit private entities, make available prenatal care to women receiving such services and, while the women are receiving the services, childcare.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1922, as added July 10, 1992, P. L. 102-321, Title II, 202, 106 Stat. 389.)

300x-23. Intravenous substance abuse

(a) Capacity of treatment programs.(1) Notification of reaching capacity. A funding agreement for a grant under section 1921 [42 USC 300x-21] is that the State involved will, in the case of programs of treatment for intravenous drug abuse, require that any such program receiving amounts from the grant, upon reaching 90 percent of its capacity to admit individuals to the program, provide to the State a notification of such fact.

(2) Provision of treatment. A funding agreement for a grant under section 1921 [42 USC 300x-21] is that the State involved will, with respect to notifications under paragraph (1), ensure that each individual who requests and is in need of treatment for intravenous drug abuse is admitted to a program of such treatment not later than:

(A) 14 days after making the request for admission to such a program; or

(B) 120 days after the date of such request, if no such program has the capacity to admit the individual on the date of such request and if interim services are made available to the individual not later than 48 hours after such request.

(b) Outreach regarding intravenous substance abuse. A funding agreement for a grant under section 1921 [42 USC 300x-21] is that the State involved, in providing amounts from the grant to any entity for treatment services for intravenous drug abuse, will require the entity to carry out activities to encourage individuals in need of such treatment to undergo treatment.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1923, as added July 10, 1992, P. L. 102-321, Title II, 202, 106 Stat. 390.)

300x-24. Requirements regarding tuberculosis and human immunodeficiency virus

(a) Tuberculosis.(1) In general. A funding agreement for a grant under section 1921 [42 USC 300x-21] is that the State involved will require that any entity receiving amounts from the grant for operating a program of treatment for substance abuse:

(A) will, directly or through arrangements with other public or nonprofit private entities, routinely make available tuberculosis services to each individual receiving treatment for such abuse; and

(B) in the case of an individual in need of such treatment who is denied admission to the program on the basis of the lack of the capacity of the program to admit the individual, will refer the individual to another provider of tuberculosis services.

(2) Tuberculosis services. For purposes of paragraph (1), the term "tuberculosis services", with respect to an individual, means:

(A) counseling the individual with respect to tuberculosis;

(B) testing to determine whether the individual has contracted such disease and testing to determine the form of treatment for the disease that is appropriate for the individual; and

(C) providing such treatment to the individual.

(b) Human immunodeficiency virus.(1) Requirement for certain States. In the case of a State described in paragraph (2), a funding agreement for a grant under section 1921 [42 USC 300x-

21] is that:

(A) with respect to individuals undergoing treatment for substance abuse, the State will, subject to paragraph (3), carry out 1 or more projects to make available to the individuals early intervention services for HIV disease at the sites at which the individuals are undergoing such treatment;

(B) for the purpose of providing such early intervention services through such projects, the State will make available from the grant the percentage that is applicable for the State under paragraph (4); and

(C) the State will, subject to paragraph (5), carry out such projects only in geographic areas of the State that have the greatest need for the projects.

(2) Designated States. For purposes of this subsection, a State described in this paragraph is any State whose rate of cases of acquired immune deficiency syndrome is 10 or more such cases per 100,000 individuals (as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control for the most recent calendar year for which such data are available).

(3) Use of existing programs regarding substance abuse. With respect to programs that provide treatment services for substance abuse, a funding agreement for a grant under section 1921 [42 USC 300x-21] for a designated State is that each such program participating in a project under paragraph (1) will be a program that began operation prior to the fiscal year for which the State is applying to receive the grant. A program that so began operation may participate in a project under paragraph (1) without regard to whether the program has been providing early intervention services for HIV disease.

(4) Applicable percentage regarding expenditures for services. (A) (i) For purposes of paragraph (1)(B), the percentage that is applicable under this paragraph for a designated State is, subject to subparagraph (B), the percentage by which the amount of the grant under section 1921 [42 USC 300x-21] for the State for the fiscal year involved is an increase over the amount specified in clause (ii).

(ii) The amount specified in this clause is the amount that was reserved by the designated State involved from the allotment of the State under section 1912A [former 42 USC

300x-1a] for fiscal year 1991 in compliance with section 1916(c)(6)(A)(ii) [former 42 USC 300x-4] (as such sections were in effect for such fiscal year).

(B) If the percentage determined under subparagraph (A) for a designated State for a fiscal year is less than 2 percent (including a negative percentage, in the case of a State for which there is no increase for purposes of such subparagraph), the percentage applicable under this paragraph for the State is 2 percent. If the percentage so determined is 2 percent or more, the percentage applicable under this paragraph for the State is the percentage determined under subparagraph (A), subject to not exceeding 5 percent.

(5) Requirement regarding rural areas. (A) A funding agreement for a grant under section 1921 [42 USC 300x-21] for a designated State is that, if the State will carry out 2 or more projects under paragraph (1), the State will carry out 1 such project in a rural area of the State, subject to subparagraph (B).

(B) The Secretary shall waive the requirement established in subparagraph (A) if the State involved certifies to the Secretary that:

(i) there is insufficient demand in the State to carry out a project under paragraph (1) in any rural area of the State; or

(ii) there are no rural areas in the State.

(6) Manner of providing services. With respect to the provision of early intervention services for HIV disease to an individual, a funding agreement for a grant under section 1921 [42 USC 300x-21] for a designated State is that:

(A) such services will be undertaken voluntarily by, and with the informed consent of, the individual; and

(B) undergoing such services will not be required as a condition of receiving treatment services for substance abuse or any other services.

(7) Definitions. For purposes of this subsection:

(A) The term "designated State" means a State described in paragraph (2).

(B) The term "early intervention services", with respect to HIV disease, means:

(i) appropriate pretest counseling;

(ii) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

(iii) appropriate post-test counseling; and

(iv) providing the therapeutic measures described in clause (ii).

(C) The term "HIV disease" means infection with the etiologic agent for acquired immune deficiency syndrome.

(c) Expenditure of grant for compliance with agreements.(1) In general. A grant under section 1921 [42 USC 300x-21] may be expended for purposes of compliance with the agreements required in this section, subject to paragraph (2).

(2) Limitation. A funding agreement for a grant under section 1921 [42 USC 300x-21] for a State is that the grant will not be expended to make payment for any service provided for purposes of compliance with this section to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service:

(A) under any State compensation program, under any insurance policy, or under any Federal or State health benefits program (including the program established in title XVIII of the Social Security Act [42 USC 1395 et seq.] and the program established in title XIX of such Act [42 USC 1396 et seq.]); or

(B) by an entity that provides health services on a prepaid basis.

(d) Maintenance of effort. With respect to services provided for by a State for purposes of compliance with this section, a funding agreement for a grant under section 1921 [42 USC 300x-21] is that the State will maintain expenditures of non-Federal amounts for such services at a level that is not less than

average level of such expenditures maintained by the State for 2-year period preceding the first fiscal year for which the State receives such a grant.

(e) Applicability of certain provision. Section 1931 [42 USC 300x-31] applies to this section (and to each other provision of this subpart [42 USC 300x-21 et seq.]).

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1924, as added July 10, 1992, P. L. 102-321, Title II, 202, 106 Stat. 391.)

300x-25. Group homes for recovering substance abusers

(a) State revolving funds for establishment of homes. For fiscal year 1993 and subsequent fiscal years, the Secretary may make a grant under section 1921 [42 USC 300x-21] only if the State involved has established, and is providing for the ongoing operation of, a revolving fund as follows:

(1) The purpose of the fund is to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than 6 individuals. The fund is established directly by the State or through the provision of a grant or contract to a nonprofit private entity.

(2) The programs are carried out in accordance with guidelines issued under subsection (b).

(3) Not less than \$100,000 is available for the fund.

(4) Loans made from the revolving fund do not exceed \$4,000 and each such loan is repaid to the revolving fund by the residents of the housing involved not later than 2 years after the date on which the loan is made.

(5) Each such loan is repaid by such residents through monthly installments, and a reasonable penalty is assessed for each failure to pay such periodic installments by the date specified in the loan agreement involved.

(6) Such loans are made only to nonprofit private entities agreeing that, in the operation of the program established pursuant to the loan:

(A) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited;

(B) any resident of the housing who violates such prohibition will be expelled from the housing;

(C) the costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing; and

(D) the residents of the housing will, through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.

(b) Issuance by Secretary of guidelines. The Secretary shall ensure that there are in effect guidelines under this subpart [42 USC 300x-21 et seq.] for the operation of programs described in subsection (a).

(c) Applicability to Territories. The requirements established in subsection (a) shall not apply to any territory of the United States other than the Commonwealth of Puerto Rico.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1925, as added July 10, 1992, P. L. 102-321, Title II, 202, 106 Stat. 393.)

300x-26. State law regarding sale of tobacco products to individuals under age of 18

(a) Relevant law. (1) In general. Subject to paragraph (2), for fiscal year 1994 and subsequent fiscal years, the Secretary may make a grant under section 1921 [42 USC 300x-21] only if the State involved has in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18.

(2) Delayed applicability for certain states. In the case of a State whose legislature does not convene a regular session in fiscal year 1993, and in the case of a State whose legislature does not convene a regular session in fiscal year 1994, the requirement described in paragraph (1) as a condition of a receipt of a grant under section 1921 [42 USC 300x-21] shall apply only for fiscal year 1995 and subsequent fiscal years.

(b) Enforcement.(1) In general. For the first applicable fiscal year and for subsequent fiscal years, a funding agreement for a grant under section 1921 [42 USC 300x-21] is that the State involved will enforce the law described in subsection (a) in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18.

(2) Activities and reports regarding enforcement. For the first applicable fiscal year and for subsequent fiscal years, a funding agreement for a grant under section 1921 [42 USC 300x-21] is that the State involved will:

(A) annually conduct random, unannounced inspections to ensure compliance with the law described in subsection (a); and

(B) annually submit to the Secretary a report describing:

(i) the activities carried out by the State to enforce such law during the fiscal year preceding the fiscal year for which the State is seeking the grant;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18; and

(iii) the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

(c) Noncompliance of State. Before making a grant under section 1921 [42 USC 300x-21] to a State for the first applicable fiscal year or any subsequent fiscal year, the Secretary shall make a determination of whether the State has maintained compliance with subsections (a) and (b). If, after notice to the State and an opportunity for a hearing, the Secretary determines that the State is not in compliance with such subsections, the Secretary shall reduce the amount of the allotment under such section for the State for the fiscal year involved by an amount equal to:

(1) in the case of the first applicable fiscal year, 10 percent of the amount determined under section 1933 [42 USC 300x-33] for the State for the fiscal year;

(2) in the case of the first fiscal year following such applicable fiscal year, 20 percent of the amount determined under section 1933 [42 USC 300x-33] for the State for the fiscal year;

(3) in the case of the second such fiscal year, 30 percent of the amount determined under section 1933 [42 USC 300x-33] for the State for the fiscal year; and

(4) in the case of the third such fiscal year or any subsequent fiscal year, 40 percent of the amount determined under section 1933 [42 USC 300x-33] for the State for the fiscal year.

(d) Definition. For purposes of this section, the term "first applicable fiscal year" means:

(1) fiscal year 1995, in the case of any State described in subsection (a)(2); and

(2) fiscal year 1994, in the case of any other State.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1926, as added July 10, 1992, P. L. 102-321, Title II, 202, 106 Stat. 394.)

300x-27. Treatment services for pregnant women

(a) In general. A funding agreement for a grant under section 1921 [42 USC 300x-21] is that the State involved:

(1) will ensure that each pregnant woman in the State who seeks or is referred for and would benefit from such services is given preference in admissions to treatment facilities receiving funds pursuant to the grant; and

(2) will, in carrying out paragraph (1), publicize the availability to such women of services from the facilities and the fact that the women receive such preference.

(b) Referrals regarding States. A funding agreement for a grant under section 1921 [42 USC 300x-21] is that, in carrying out subsection (a)(1):

(1) the State involved will require that, in the event that a treatment facility has insufficient capacity to provide treatment services to any woman described in such subsection

who seeks the services from the facility, the facility refer the woman to the State; and

(2) the State, in the case of each woman for whom a referral under paragraph (1) is made to the State:

(A) will refer the woman to a treatment facility that has the capacity to provide treatment services to the woman; or

(B) will, if no treatment facility has the capacity to admit the woman, make interim services available to the woman not later than 48 hours after the woman seeks the treatment services.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1927, as added July 10, 1992, P. L. 102-321, Title II, 202, 106 Stat. 395; Aug. 26, 1992, P. L. 102-352, 2(a)(10), 106 Stat. 938.)

300x-28. Additional agreements

(a) Improvement of process for appropriate referrals for treatment. With respect to individuals seeking treatment services, a funding agreement for a grant under section 1921 [42 USC 300x-21] is that the State involved will improve (relative to fiscal year 1992) the process in the State for referring the individuals to treatment facilities that can provide to the individuals the treatment modality that is most appropriate for the individuals.

(b) Continuing education. With respect to any facility for treatment services or prevention activities that is receiving amounts from a grant under section 1921 [42 USC 300x-21], a funding agreement for a State for a grant under such section is that continuing education in such services or activities (or both, as the case may be) will be made available to employees of the facility who provide the services or activities.

(c) Coordination of various activities and services. A funding agreement for a grant under section 1921 [42 USC 300x-21] is that the State involved will coordinate prevention and treatment activities with the provision of other appropriate services (including health, social, correctional and criminal justice, educational, vocational rehabilitation, and employment services).

(d) Waiver of requirement. (1) In general. Upon the request of a State, the Secretary may provide to a State a waiver of any or

all of the requirements established in this section if the Secretary determines that, with respect to services for the prevention and treatment of substance abuse, the requirement involved is unnecessary for maintaining quality in the provision of such services in the State.

(2) Date certain for acting upon request. The Secretary shall approve or deny a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

(3) Applicability of waiver. Any waiver provided by the Secretary under paragraph (1) shall be applicable only to the fiscal year involved.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1928, as added July 10, 1992, P. L. 102-321, Title II, 202, 106 Stat. 396.)

300x-29. Submission to Secretary of statewide assessment of needs

The Secretary may make a grant under section 1921 [42 USC 300x-21] only if the State submits to the Secretary an assessment of the need in the State for authorized activities (which assessment is conducted in accordance with criteria issued by the Secretary), both by locality and by the State in general, which assessment includes a description of:

(1) the incidence and prevalence in the State of drug abuse and the incidence and prevalence in the State of alcohol abuse and alcoholism;

(2) current prevention and treatment activities in the State;

(3) the need of the State for technical assistance to carry out such activities;

(4) efforts by the State to improve such activities; and

(5) the extent to which the availability of such activities is insufficient to meet the need for the activities, the interim services to be made available under sections 1923(a) and 1927(b) [42 USC 300x-23(a), 300x-27(b)], and the manner in which such services are to be so available.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1929, as

added July 10, 1992, P. L. 102-321, Title II, 202, 106 Stat. 396.)

300x-30. Maintenance of effort regarding State expenditures

(a) In general. With respect to the principal agency of a State for carrying out authorized activities, a funding agreement for a grant under section 1921 [42 USC 300x-21] for the State for a fiscal year is that such agency will for such year maintain aggregate State expenditures for authorized activities at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying for the grant.

(b) Waiver. (1) In general. Upon the request of a State, the Secretary may waive all or part of the requirement established in subsection (a) if the Secretary determines that extraordinary economic conditions in the State justify the waiver.

(2) Date certain for acting upon request. The Secretary shall approve or deny a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

(3) Applicability of waiver. Any waiver provided by the Secretary under paragraph (1) shall be applicable only to the fiscal year involved.

(c) Noncompliance by State. (1) In general. In making a grant under section 1921 [42 USC 300x-21] to a State for a fiscal year, the Secretary shall make a determination of whether, for the previous fiscal year, the State maintained material compliance with any agreement made under subsection (a). If the Secretary determines that a State has failed to maintain such compliance, the Secretary shall reduce the amount of the allotment under section 1921 [42 USC 300x-21] for the State for the fiscal year for which the grant is being made by an amount equal to the amount constituting such failure for the previous fiscal year.

(2) Submission of information to Secretary. The Secretary may make a grant under section 1921 [42 USC 300x-21] for a fiscal year only if the State involved submits to the Secretary information sufficient for the Secretary to make the determination required in paragraph (1).

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1930, as added July 10, 1992, P. L. 102-321, Title II, 202, 106 Stat. 397.)

300x-31. Restrictions on expenditure of grant

(a) In general.(1) Certain restrictions. A funding agreement for a grant under section 1921 [42 USC 300x-21] is that the State involved will not expend the grant:

(A) to provide inpatient hospital services, except as provided in subsection (b);

(B) to make cash payments to intended recipients of health services;

(C) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

(E) to provide financial assistance to any entity other than a public or nonprofit private entity; or

(F) to carry out any program prohibited by section 256(b) of the Health Omnibus Programs Extension of 1988 (42 U.S.C. 300ee-5).

(2) Limitation on administrative expenses. A funding agreement for a grant under section 1921 [42 USC 300x-21] is that the State involved will not expend more than 5 percent of the grant to pay the costs of administering the grant.

(3) Limitation regarding penal and correctional institutions. A funding agreement for a State for a grant under section 1921 [42 USC 300x-21] is that, in expending the grant for the purpose of providing treatment services in penal or correctional institutions of the State, the State will not expend more than an amount equal to the amount expended for such purpose by the State from the grant made under section 1912A [former 42 USC 300x-1a] to the State for fiscal year 1991 (as section 1912A [former 42 USC 300x-1a] was in effect for

such fiscal year).

(b) Exception regarding inpatient hospital services.(1) Medical necessity as precondition. With respect to compliance with the agreement made under subsection (a), a State may expend a grant under section 1921 [42 USC 300x-21] to provide inpatient hospital services as treatment for substance abuse only if it has been determined, in accordance with guidelines issued by the Secretary, that such treatment is a medical necessity for the individual involved, and that the individual cannot be effectively treated in a community-based, nonhospital, residential program of treatment.

(2) Rate of payment. In the case of an individual for whom a grant under section 1921 [42 USC 300x-21] is expended to provide inpatient hospital services described in paragraph (1), a funding agreement for the grant for the State involved is that the daily rate of payment provided to the hospital for providing the services to the individual will not exceed the comparable daily rate provided for community-based, nonhospital, residential programs of treatment for substance abuse.

(c) Waiver regarding construction of facilities. (1) In general. The Secretary may provide to any State a waiver of the restriction established in subsection (a)(1)(C) for the purpose of authorizing the State to expend a grant under section 1921 [42 USC 300x-21] for the construction of a new facility or rehabilitation of an existing facility, but not for land acquisition.

(2) Standard regarding need for waiver. The Secretary may approve a waiver under paragraph (1) only if the State demonstrates to the Secretary that adequate treatment cannot be provided through the use of existing facilities and that alternative facilities in existing suitable buildings are not available.

(3) Amount. In granting a waiver under paragraph (1), the Secretary shall allow the use of a specified amount of funds to construct or rehabilitate a specified number of beds for residential treatment and a specified number of slots for outpatient treatment, based on reasonable estimates by the State of the costs of construction or rehabilitation. In considering waiver applications, the Secretary shall ensure that the State has carefully designed a program that will minimize the costs of additional beds.

(4) Matching funds. The Secretary may grant a waiver under paragraph (1) only if the State agrees, with respect to the costs to be incurred by the State in carrying out the purpose of the waiver, to make available non-Federal contributions in cash toward such costs in an amount equal to not less than \$1 for each \$1 of Federal funds provided under section 1921 [42 USC 300x-21].

(5) Date certain for acting upon request. The Secretary shall act upon a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1931, as added July 10, 1992, P. L. 102-321, Title II, 202, 106 Stat. 397.)

300x-32. Application for grant; approval of State plan

(a) In general. For purposes of section 1921 [42 USC 300x-21], an application for a grant under such section for a fiscal year is in accordance with this section if, subject to subsections (c) and (d)(2):

(1) the State involved submits the application not later than the date specified by the Secretary;

(2) the application contains each funding agreement that is described in this subpart or subpart III [42 USC 300x-21 et seq. or 300x-51 et seq.] for such a grant (other than any such agreement that is not applicable to the State);

(3) the agreements are made through certification from the chief executive officer of the State;

(4) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

(5) the application contains the information required in section 1929 [42 USC 300x-29], the information required in section 1930(c)(2) [42 USC 300x-30(c)(2)], and the report required in section 1942(a) [42 USC 300x-52(a)];

(6) (A) the application contains a plan in accordance with subsection (b) and the plan is approved by the Secretary; and

(B) the State provides assurances satisfactory to the Secretary that the State complied with the provisions of the plan under subparagraph (A) that was approved by the Secretary for the most recent fiscal year for which the State received a grant under section 1921 [42 USC 300x-21]; and

(7) the application (including the plan under paragraph (6)) is otherwise in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart [42 USC 300x-21 et seq.].

(b) State plan. (1) In general. A plan submitted by a State under subsection (a)(6) is in accordance with this subsection if the plan contains detailed provisions for complying with each funding agreement for a grant under section 1921 [42 USC 300x-21] that is applicable to the State, including a description of the manner in which the State intends to expend the grant.

(2) Authority of Secretary regarding modifications. As a condition of making a grant under section 1921 [42 USC 300x-21] to a State for a fiscal year, the Secretary may require that the State modify any provision of the plan submitted by the State under subsection (a)(6) (including provisions on priorities in carrying out authorized activities). If the Secretary approves the plan and makes the grant to the State for the fiscal year, the Secretary may not during such year require the State to modify the plan.

(3) Authority of center for substance abuse prevention. With respect to plans submitted by the States under subsection (a)(6), the Secretary, acting through the Director of the Center for Substance Abuse Prevention, shall review and approve or disapprove the provisions of the plans that relate to prevention activities.

(c) Waivers regarding certain territories. In the case of any territory of the United States whose allotment under section 1921 [42 USC 300x-21] for the fiscal year is the amount specified in section 1933(c)(2)(B) [42 USC 300x-33(c)(2)(B)], the Secretary may waive such provisions of this subpart and subpart III [42 USC 300x-21 et seq., 300x-51 et seq.] as the Secretary determines to be appropriate, other than the provisions of section 1931[42 USC 300x-31].

(d) Issuance of regulations; precondition to making grants. (1)

Regulations. Not later than August 25, 1992, the Secretary, acting as appropriate through the Director of the Center for Treatment Improvement or the Director of the Center for Substance Abuse Prevention, shall by regulation establish standards specifying the circumstances in which the Secretary will consider an application for a grant under section 1921 [42 USC 300x-21] to be in accordance with this section.

(2) Issuance as precondition to making grants. The Secretary may not make payments under any grant under section 1921 [42 USC 300x-21] for fiscal year 1993 on or after January 1, 1993, unless the Secretary has issued standards under paragraph (1).

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1932, as added July 10, 1992, P. L. 102-321, Title II, 202, 106 Stat. 399.)

300x-33. Determination of amount of allotment

(a) States. (1) In general. Subject to subsection (b), the Secretary shall determine the amount of the allotment required in section 1921 [42 USC 300x-21] for a State for a fiscal year as follows:

(A) The formula established in paragraph (1) of section 1918(a) [42 USC 300x-7(a)(1)] shall apply to this subsection to the same extent and in the same manner as the formula applies for purposes of section 1918(a) [42 USC 300x-7(a)], except that, in the application of such formula for purposes of this subsection, the modifications described in subparagraph (B) shall apply.

(B) For purposes of subparagraph (A), the modifications described in this subparagraph are as follows:

(i) The amount specified in paragraph (2)(A) of section 1918(a) [42 USC 300x-7(a)(2)(A)] is deemed to be the amount appropriated under section 1935(a) [42 USC 300x-35(a)] for allotments under section 1921 [42 USC 300x-21] for the fiscal year involved.

(ii) The term "P" is deemed to have the meaning given in paragraph (2) of this subsection. Section 1918(a)(5)(B) [42 USC 300x-7(a)(5)(B)] applies to the data used in determining such term for the States.

(iii) The factor determined under paragraph (8) of section 1918(a) [42 USC 300x-7(a)(8)] is deemed to have the purpose of reflecting the differences that exist between the State involved and other States in the costs of providing authorized services.

(2) Determination of term "P". For purposes of this subsection, the term "P" means the percentage that is the arithmetic mean of the percentage determined under subparagraph (A) and the percentage determined under subparagraph (B), as follows:

(A) The percentage constituted by the ratio of:

(i) an amount equal to the sum of the total number of individuals who reside in the State involved and are between 18 and 24 years of age (inclusive) and the number of individuals in the State who reside in urbanized areas of the State and are between such years of age; to

(ii) an amount equal to the total of the respective sums determined for the States under clause (i).

(B) The percentage constituted by the ratio of:

(i) the total number of individuals in the State who are between 25 and 64 years of age (inclusive); to

(ii) an amount equal to the sum of the respective amounts determined for the States under clause (i).

(b) Minimum allotments for States. For each of the fiscal years 1993 and 1994, the amount of the allotment required in section 1921 [42 USC 300x-21] for a State for the fiscal year involved shall be the greater of:

(1) the amount determined under subsection (a) for the State for the fiscal year; and

(2) an amount equal to 79.4 percent of the amount received by the State from allotments made pursuant to this part for fiscal year 1992 (including reallocations under section 205(a) of the ADAMHA Reorganization Act).

(c) Territories. (1) Determination under formula. Subject to paragraphs (2) and (4), the amount of an allotment under section 1921 [42 USC 300x-21] for a territory of the United

States for a fiscal year shall be the product of:

(A) an amount equal to the amounts reserved under paragraph (3) for the fiscal year; and

(B) a percentage equal to the quotient of:

(i) the civilian population of the territory, as indicated by the most recently available data; divided by

(ii) the aggregate civilian population of the territories of the United States, as indicated by such data.

(2) Minimum allotment for territories. The amount of an allotment under section 1921 [42 USC 300x-21] for a territory of the United States for a fiscal year shall be the greater of:

(A) the amount determined under paragraph (1) for the territory for the fiscal year;

(B) \$50,000; and

(C) with respect to fiscal years 1993 and 1994, an amount equal to 79.4 percent of the amount received by the territory from allotments made pursuant to this part [42 USC 300x et seq.] for fiscal year 1992.

(3) Reservation of amounts. The Secretary shall each fiscal year reserve for the territories of the United States 1.5 percent of the amounts appropriated under section 1935(a) [42 USC 300x-35(a)] for allotments under section 1921 [42 USC 300x-21] for the fiscal year.

(4) Availability of data on population. With respect to data on the civilian population of the territories of the United States, if the Secretary determines for a fiscal year that recent such data for purposes of paragraph (1)(B) do not exist regarding a territory, the Secretary shall for such purposes estimate the civilian population of the territory by modifying the data on the territory to reflect the average extent of change occurring during the ensuing period in the population of all territories with respect to which recent such data do exist.

(5) Applicability of certain provisions. For purposes of subsections (a) and (b), the term "State" does not include the territories of the United States.

(d) Indian tribes and tribal organizations.(1) In general. If the Secretary:

(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this subpart [42 USC 300x-21 et seq.] be provided directly by the Secretary to such tribe or organization; and

(B) makes a determination that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this;the Secretary shall reserve from the allotment under section 1921 [42 USC 300x-21] for the State for the fiscal year involved an amount that bears the same ratio to the allotment as the amount provided under this subpart to the tribe or tribal organization for fiscal year 1991 for activities relating to the prevention and treatment of the abuse of alcohol and other drugs bore to the amount of the portion of the allotment under this subpart for the State for such fiscal year that was expended for such activities.

(2) Tribe or tribal organization as grantee. The amount reserved by the Secretary on the basis of a determination under this paragraph shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

(3) Application. In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this paragraph, it shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe.

(4) Definition. The terms "Indian tribe" and "tribal organization" have the same meaning given such terms in subsections (b)[(e)] and (c) [(l)] of section 4 of the Indian Self-Determination and Education Assistance Act [25 USC 450b(e), (l)].

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1933, as added July 10, 1992, P. L. 102-321, Title II, 202, 106 Stat. 399; Aug. 26, 1992, P. L. 102-352, 2(a)(11), 106 Stat. 938.)

300x-34. Definitions

For purposes of this subpart [42 USC 300x-21 et seq.]:

(1) The term "authorized activities", subject to section 1931 [42 USC 300x-31], means the activities described in section 1921(b) [42 USC 300x-21(b)].

(2) The term "funding agreement", with respect to a grant under section 1921[42 USC 300x-21] to a State, means that the Secretary may make such a grant only if the State makes the agreement involved.

(3) The term "prevention activities", subject to section 1931 [42 USC 300x-31], means activities to prevent substance abuse.

(4) The term "substance abuse" means the abuse of alcohol or other drugs.

(5) The term "treatment activities" means treatment services and, subject to section 1931 [42 USC 300x-31], authorized activities that are related to treatment services.

(6) The term "treatment facility" means an entity that provides treatment services.

(7) The term "treatment services", subject to section 1931[42 USC 300x-31], means treatment for substance abuse.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1934, as added July 10, 1992, P. L. 102-321, Title II, 202, 106 Stat. 402.)

300x-35. Funding

(a) Authorization of appropriations. For the purpose of carrying out this subpart, subpart III and section 505 [42 USC 300x-21 et seq., 300x-51 et seq., and 290aa-4] with respect to substance abuse, and section 515(d) [42 USC 290bb-21(d)], there are authorized to be appropriated \$1,500,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(b) Allocations for technical assistance, national data base, data collection, and program evaluations.(1) In general.(A) For the purpose of carrying out section 1948(a) [42 USC 300x-58(a)] with respect to substance abuse, section 515(d) [42 USC 290bb-21(d)], and the purposes specified in subparagraphs (B) and (C), the Secretary shall obligate 5 percent of the amounts appropriated under subsection (a) each fiscal year.

(B) The purpose specified in this subparagraph is the collection of data in this paragraph is carrying out section 505 [42 USC 290aa-4] with respect to substance abuse.

(C) The purpose specified in this subparagraph is the conduct of evaluations of authorized activities to determine methods for improving the availability and quality of such activities.

(2) Activities of center for substance abuse prevention. Of the amounts reserved under paragraph (1) for a fiscal year, the Secretary, acting through the Director of the Center for Substance Abuse Prevention, shall obligate 20 percent for carrying out paragraph (1)(C), section 1949(a) [42 USC 300x-59(a)] with respect to prevention activities, and section 515(d) [42 USC 290bb-21].

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1935, as added July 10, 1992, P. L. 102-321, Title II, 202, 106 Stat. 403.)

300x-51. Opportunity for public comment on State plans
A funding agreement for a grant under section 1911 or 1921 [42 USC 300x or 300x-21] is that the State involved will make the plan required in section 1912 [42 USC 300x-1], and the plan required in section 1932 [42 USC 300x-32], respectively, public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during the development of the plan (including any revisions) and after the submission of the plan to the Secretary.

300x-52. Requirement of reports and audits by States

(a) Report. A funding agreement for a grant under section 1911 or 1921 [42 USC 300x or 300x-21] is that the State involved will submit to the Secretary a report in such form and containing such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary for securing a record and a description of:

(1) the purposes for which the grant received by the State for the preceding fiscal year under the program involved were expended and a description of the activities of the State under the program; and

(2) the recipients of amounts provided in the grant.

(b) Audits. A funding agreement for a grant under section 1911 or 1921 [42 USC 300x or 300x-21] is that the State will, with respect to the grant, comply with chapter 75 of title 31, United States Code [31 USC 7501 et seq.].

(c) Availability to public. A funding agreement for a grant under section 1911 or 1921 [42 USC 300x or 300x-21] is that the State involved will:

(1) make copies of the reports and audits described in this section available for public inspection within the State; and

(2) provide copies of the report under subsection (a), upon request, to any interested person (including any public agency).

(July 1, 1944, ch 373, Title XIX, Part B, Subpart III, 1942, as added July 10, 1992, P. L. 102-321, Title II, 203(a), 106 Stat. 403.)

300x-53. Additional requirements

(a) In general. A funding agreement for a grant under section 1911 or 1921 [42 USC 300x or 300x-21] is that the State involved will:

(1) (A) for the fiscal year for which the grant involved is provided, provide for independent peer review to assess the quality, appropriateness, and efficacy of treatment services provided in the State to individuals under the program involved; and

(B) ensure that, in the conduct of such peer review, not fewer than 5 percent of the entities providing services in the State under such program are reviewed (which 5 percent is representative of the total population of such entities);

(2) permit and cooperate with Federal investigations undertaken in accordance with section 1945 [42 USC 300x-55]; and

(3) provide to the Secretary any data required by the Secretary pursuant to section 505 [42 USC 290aa-4] and will cooperate with the Secretary in the development of uniform criteria for the collection of data pursuant to such section.

(b) Patient records. The Secretary may make a grant under section 1911 or 1921 [42 USC 300x or 300x-21] only if the State involved has in effect a system to protect from inappropriate disclosure patient records maintained by the State in connection with an activity funded under the program involved or by any entity which is receiving amounts from the grant.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart III, 1943, as added July 10, 1992, P. L. 102-321, Title II, 203(a), 106 Stat. 404; Aug. 26, 1992, P. L. 102-352, (a)(12), 106 Stat. 939.)

300x-54. Disposition of certain funds appropriated for allotments

(a) In general. Amounts described in subsection (b) and available for a fiscal year pursuant to section 1911 or 1921 [42 USC 300x or 300x-21], as the case may be, shall be allotted by the Secretary and paid to the States receiving a grant under the program involved, other than any State referred to in subsection

(b) with respect to such program. Such amounts shall be allotted in a manner equivalent to the manner in which the allotment under the program involved was determined.

(b) Specification of amounts. The amounts referred to in subsection (a) are any amounts that:

(1) are not paid to States under the program involved as a result of:

(A) the failure of any State to submit an application in accordance with the program;

(B) the failure of any State to prepare such application in compliance with the program; or

(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State under the program;

(2) are terminated, repaid, or offset under section 1945 [42 USC 300x-55];

(3) in the case of the program established in section 1911 [42 USC 300x], are available as a result of reductions in allotments under such section pursuant to section 1912(d) or

1915(b) [42 USC 300x-1(d) or 300x-4(b)]; or

(4) in the case of the program established in section 1921 [42 USC 300x-21], are available as a result of reductions in allotments under such section pursuant to section 1926 or 1930 [42 USC 300x-26 or 300x-30].

(July 1, 1944, ch 373, Title XIX, Part B, Subpart III, 1944, as added July 10, 1992, P. L. 102-321, Title II, 203(a), 106 Stat. 404.)

300x-55. Failure to comply with agreements

(a) Suspension or termination of payments. Subject to subsection (e), if the Secretary determines that a State has materially failed to comply with the agreements or other conditions required for the receipt of a grant under the program involved, the Secretary may in whole or in part suspend payments under the grant, terminate the grant for cause, or employ such other remedies (including the remedies provided for in subsections (b) and (c)) as may be legally available and appropriate in the circumstances involved.

(b) Repayment of payments.(1) In general. Subject to subsection (e), the Secretary may require a State to repay with interest any payments received by the State under section 1911 or 1921 [42 USC 300x or 300x-21] that the Secretary determines were not expended by the State in accordance with the agreements required under the program involved.

(2) Offset against payments. If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under the program involved.

(c) Withholding of payments.(1) In general. Subject to subsections (e) and (g)(3), the Secretary may withhold payments due under section 1911 or 1921 [42 USC 300x or 300x-21] if the Secretary determines that the State involved is not expending amounts received under the program involved in accordance with the agreements required under the program.

(2) Termination of withholding. The Secretary shall cease withholding payments from a State under paragraph (1) if the Secretary determines that there are reasonable assurances that the State will expend amounts received under the program involved in accordance with the agreements required under the

program.

(d) Applicability of remedies to certain violations.(1) In general. With respect to agreements or other conditions for receiving a grant under the program involved, in the case of the failure of a State to maintain material compliance with a condition referred to in paragraph (2), the provisions for noncompliance with the condition that are provided in the section establishing the condition shall apply in lieu of subsections (a) through (c) of this section.

(2) Relevant conditions. For purposes of paragraph (1):

(A) In the case of the program established in section 1911 [42 USC 300x], a condition referred to in this paragraph is the condition established in section 1912(d) [42 USC 300x-1(d)] and the condition established in section 1915(b) [42 USC 300x-4(b)].

(B) In the case of the program established in section 1921 [42 USC 300x-21], a condition referred to in this paragraph is the condition established in section 1926 [42 USC 300x-26] and the condition established in section 1930 [42 USC 300x-30].

(e) Opportunity for hearing. Before taking action against a State under any of subsections (a) through (c) (or under a section referred to in subsection (d)(2), as the case may be), the Secretary shall provide to the State involved adequate notice and an opportunity for a hearing.

(f) Requirement of hearing in certain circumstances.(1) In general. If the Secretary receives a complaint that a State has failed to maintain material compliance with the agreements or other conditions required for receiving a grant under the program involved (including any condition referred to for purposes of subsection (d)), and there appears to be reasonable evidence to support the complaint, the Secretary shall promptly conduct a hearing with respect to the complaint.

(2) Finding of material noncompliance. If in a hearing under paragraph (1) the Secretary finds that the State involved has failed to maintain material compliance with the agreement or other condition involved, the Secretary shall take such action under this section as may be appropriate to ensure that material compliance is so maintained, or such action as may be required in a section referred to in subsection (d)(2), as the case may be.

(g) Certain investigations.(1) Requirement regarding Secretary. The Secretary shall in fiscal year 1994 and each subsequent fiscal year conduct in not less than 10 States investigations of the expenditure of grants received by the States under section 1911 or 1921 [42 USC 300x or 300x-21] in order to evaluate compliance with the agreements required under the program involved.

(2) Provision of records etc. upon request. Each State receiving a grant under section 1911 or 1921 [42 USC 300x or 300x-21], and each entity receiving funds from the grant, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

(3) Limitations on authority. The Secretary may not institute proceedings under subsection (c) unless the Secretary has conducted an investigation concerning whether the State has expended payments under the program involved in accordance with the agreements required under the program. Any such investigation shall be conducted within the State by qualified investigators.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart III, 1945, as added July 10, 1992, P. L. 102-321, Title II, 203(a), 106 Stat. 405.)

300x-56. Prohibitions regarding receipt of funds

(a) Establishment. (1) Certain false statements and representations. A person shall not knowingly and willfully make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payments may be made by a State from a grant made to the State under section 1911 or 1921 [42 USC 300x or 300x-21].

(2) Concealing or failing to disclose certain events. A person with knowledge of the occurrence of any event affecting the initial or continued right of the person to receive any payments from a grant made to a State under section 1911 or 1921 [42 USC 300x or 300x-21] shall not conceal or fail to disclose any such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no

such amount is due.

(b) Criminal penalty for violation of prohibition. Any person who violates any prohibition established in subsection (a) shall for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart III, 1946, as added July 10, 1992, P. L. 102-321, Title II, 203(a), 106 Stat. 406.)

300x-57. Nondiscrimination

(a) In general. (1) Rule of construction regarding certain civil rights laws. For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 USC 6101 et seq.], on the basis of handicap under section 504 of the Rehabilitation Act of 1973 [29 USC 704], on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 [42 USC 2000d et seq.], programs and activities funded in whole or in part with funds made available under section 1911 or 1921 [42 USC 300x or 300x-21] shall be considered to be programs and activities receiving Federal financial assistance.

(2) Prohibition. No person shall on the ground of sex (including, in the case of a woman, on the ground that the woman is pregnant), or on the ground of religion, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under section 1911 or 1921 [42 USC 300x or 300x-21] .

(b) Enforcement. (1) Referrals to Attorney General after notice. Whenever the Secretary finds that a State, or an entity that has received a payment pursuant to section 1911 or 1921 [42 USC 300x or 300x-21], has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may:

(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(B) exercise the powers and functions provided by the Age Discrimination Act of 1975 [42 USC 6101 et seq.], section 504 of the Rehabilitation Act of 1973 [29 USC 704], title IX of the Education Amendments of 1972, or title VI of the Civil Rights Act of 1964 [42 USC 2000d et seq.], as may be applicable; or

(C) take such other actions as may be authorized by law.

(2) Authority of Attorney General. When a matter is referred to the Attorney General pursuant to paragraph (1)(A), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart III, 1947, as added July 10, 1992, P. L. 102-321, Title II, 203(a), 106 Stat. 407.)

300x-58. Technical assistance and provision of supplies and services in lieu of grant funds

(a) Technical assistance. The Secretary shall, without charge to a State receiving a grant under section 1911 or 1921 [42 USC 300 or 300x-21], provide to the State (or to any public or nonprofit private entity within the State) technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance directly, through contract, or through grants.

(b) Provision of supplies and services in lieu of grant funds.

(1) In general. Upon the request of a State receiving a grant under section 1911 or 1921 [42 USC 300 or 300x-21], the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out the program involved and, for such purpose, may

detail to the State any officer or employee of the Department of Health and Human Services.

(2) Corresponding reduction in payments. With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the program involved to the State by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart III, 1948, as added July 10, 1992, P. L. 102-321, Title II, 203(a), 106 Stat. 408.)

300x-59. Report by Secretary

Not later than January 24, 1994, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report on the activities of the States carried out pursuant to the programs established in sections 1911 and 1921 [42 USC 300x, 300x-21]. Such report may include any recommendations of the Secretary for appropriate changes in legislation.

/* This report will be provided in the next update. */

(July 1, 1944, ch 373, Title XIX, Part B, Subpart III, 1949, as added July 10, 1992, P. L. 102-321, Title II, 203(a), 106 Stat. 408.)

300x-60. Rule of construction regarding delegation of authority to States

With respect to States receiving grants under section 1911 or 1921 [42 USC 300x or 300x-21], this part may not be construed to authorize the Secretary to delegate to the States the primary responsibility for interpreting the governing provisions of this part [42 USC 300x-51 et seq.].

(July 1, 1944, ch 373, Title XIX, Part B, Subpart III, 1950, as added July 10, 1992, P. L. 102-321, Title II, 203(a), 106 Stat. 408)

300x-61. Solicitation of views of certain entities

In carrying out this part [42 USC 300x-51 et seq.] the Secretary, as appropriate, shall solicit the views of the States and other appropriate entities.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart II, 1951, as added July 10, 1992, P. L. 102-321, Title II, 203(a), 106 Stat. 408.)

300x-62. Availability to States of grant payments

(a) In general. Subject to subsection (b), any amounts paid to a State under the program involved shall be available for obligation until the end of the fiscal year for which the amounts were paid, and if obligated by the end of such year, shall remain available for expenditure until the end of the succeeding fiscal year.

(b) Exception regarding noncompliance of subgrantees. If a State has in accordance with subsection (a) obligated amounts paid to the State under the program involved, in any case in which the Secretary determines that the obligation consists of a grant or contract awarded by the State, and that the State has terminated or reduced the amount of such financial assistance on the basis of the failure of the recipient of the assistance to comply with the terms upon which the assistance was conditioned:

(1) the amounts involved shall be available for reobligation by the State through September 30 of the fiscal year following the fiscal year for which the amounts were paid to the State; and

(2) any of such amounts that are obligated by the State in accordance with paragraph (1) shall be available for expenditure through such date.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart III, 1952, as added July 10, 1992, P. L. 102-321, Title II, 203(a), 106 Stat. 409.)

300x-63. Continuation of certain programs

(a) In general. Of the amount allotted to the State of Hawaii under section 1911 [42 USC 300x], and the amount allotted to such State under section 1921 [42 USC 300x-21], an amount equal

to the proportion of Native Hawaiians residing in the State to the total population of the State shall be available, respectively, for carrying out the program involved for Native Hawaiians.

(b) Expenditure of amounts. The amount made available under subsection (a) may be expended only through contracts entered into by the State of Hawaii with public and private nonprofit organizations to enable such organizations to plan, conduct, and administer comprehensive substance abuse and treatment programs for the benefit of Native Hawaiians. In entering into contracts under this section, the State of Hawaii shall give preference to Native Hawaiian organizations and Native Hawaiian health centers.

(c) Definitions. For the purposes of this subsection, the terms "Native Hawaiian", "Native Hawaiian organization", and "Native Hawaiian health center" have the meaning given such terms in section 2308 of subtitle D of title II of the Anti-Drug Abuse Act of 1988 [42 USC 11707].

(July 1, 1944, ch 373, Title XIX, Part B, Subpart III, 1953, as added July 10, 1992, P. L. 102-321, Title II, 203(a), 106 Stat. 409.)

300x-64. Definitions

(a) Definitions for Subpart III. For purposes of this subpart [42 USC 300x-51 et seq.]:

(1) The term "program involved" means the program of grants established in section 1911 or 1921 [42 USC 300x or 300x-21], or both, as indicated by whether the State involved is receiving or is applying to receive a grant under section 1911 or 1921 [42 USC 300x or 300x-21], or both.

(2) (A) The term "funding agreement", with respect to a grant under section 1911 [42 USC 300x], has the meaning given such term in section 1919 [42 USC 300x-8].

(B) The term "funding agreement", with respect to a grant under section 1921 [42 USC 300x-21], has the meaning given such term in section 1934 [42 USC 300x-34].

(b) Definitions for Part B. For purposes of this part [42 USC 300x et seq.]:

(1) The term "Comptroller General" means the Comptroller General of the United States.

(2) The term "State", except as provided in sections 1918(c)(5) and 1933(c)(5) [42 USC 300x-7(c)(5), 300x-33(c)(5)], means each of the several States, the District of Columbia, and each of the territories of the United States.

(3) The term "territories of the United States" means each of the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Palau, the Marshall Islands, and Micronesia.

(4) The term "interim services", in the case of an individual in need of treatment for substance abuse who has been denied admission to a program of such treatment on the basis of the lack of the capacity of the program to admit the individual, means services for reducing the adverse health effects of such abuse, for promoting the health of the individual, and for reducing the risk of transmission of disease, which services are provided until the individual is admitted to such a program.

(July 1, 1944, ch 373, Title XIX, Part B, Subpart III, 1954, as added July 10, 1992, P. L. 102-321, Title II, 203(a), 106 Stat. 409.)