

HUD to units of general local government, territories, or Indian tribes, and grant amounts provided by a State to State recipients, may be used to provide an essential service under paragraph (a)(2) of this section only if the service is a new service, or is a quantifiable increase in the level of a service above that which the unit of general local government (or, in the case of a nonprofit organization, the unit of general local government in which the proposed activities are to be located), territory, or Indian tribe, as applicable, provided with local funds during the 12 calendar months immediately before the grantee or State recipient received initial grant amounts.

(2) Limits on the use of assistance for essential services established in 42 U.S.C. 11374(a)(2) are applicable even when the unit of local government, territory, or Indian tribe provides some or all of its grant funds to a nonprofit recipient. This limitation may be waived in accordance with 42 U.S.C. 11374.

(c) *Limitation on homeless prevention activities.* Limits on the use of assistance for homeless prevention activities established in 42 U.S.C. 11374(a)(4) are applicable even when the unit of local government, territory, or Indian tribe provides some or all of its grant funds to a nonprofit recipient.

[61 FR 51549, Oct. 2, 1996]

**§ 576.23 Limitations—Primarily religious organizations.**

(a) *Provision of assistance.* (1) Assistance may be provided under this part to a grantee or recipient that is a primarily religious organization if the primarily religious organization agrees to provide all eligible activities under this program in a manner that is free from religious influences and in accordance with the following principles:

(i) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(ii) It will not discriminate against any person applying for shelter or any of the eligible activities under this part on the basis of religion and will not limit such housing or other eligible

activities or give preference to persons on the basis of religion; and

(iii) It will provide no religious instruction or counseling, conduct no religious services or worship (not including voluntary nondenominational prayer before meetings), engage in no religious proselytizing, and exert no other religious influence in the provision of shelter and other eligible activities under this part.

(2) HUD may provide reallocated amounts to a recipient that is a primarily religious organization if the assistance will not be used by the organization to acquire a structure (in the case of homeless prevention activities under § 576.21(a)(4)), or to rehabilitate a structure owned by the organization, except as described in paragraph (b) of this section.

(b) *Rehabilitation or conversion of emergency shelters.* Grants may be used to rehabilitate or convert to an emergency shelter a structure that is owned by a primarily religious organization, only if:

(1) The structure (or portion thereof) that is to be renovated, rehabilitated, or converted with HUD assistance has been leased to an existing or newly established wholly secular organization;

(2) The HUD assistance is provided to the secular organization (and not the religious organization) to make the improvements;

(3) The leased structure will be used exclusively for secular purposes available to all persons;

(4) The lease payments paid to the primarily religious organization do not exceed the fair market rent for the structure before the renovation, rehabilitation, or conversion;

(5) The portion of the cost of any improvements that benefit any unleased portion of the structure will be allocated to, and paid for by, the religious organization; and

(6) The primarily religious organization agrees that if the recipient does not retain the use of the leased premises for wholly secular purposes for the useful life of the improvements, the primarily religious organization will pay to the original grantee (from which the amounts used to renovate, rehabilitate, or convert the building were derived) an amount equal to the residual

value of the improvements. A private nonprofit organization must remit to HUD this amount if the organization is the lessee as well as the grantee. The original grantee is expected to use this amount to alleviate homelessness in its jurisdiction, but there is no requirement that funds received after the close of the grant period be used in accordance with the requirements of this part.

(c) *Assistance to a wholly secular private nonprofit organization.* (1) A primarily religious organization may establish a wholly secular private nonprofit organization to serve as a recipient. The secular organization may be eligible to receive all forms of assistance available under this part, subject to the following:

(i) The secular organization must agree to provide shelter and services eligible under this part in a manner that is free from religious influences and in accordance with the principles set forth in paragraph (a)(1) of this section.

(ii) The secular organization may enter into a contract with the religious organization to provide essential services or undertake homeless prevention activities. The religious organization must agree in the contract to carry out its contractual responsibilities in a manner free from religious influences and in accordance with the principles set forth in paragraph (a)(1) of this section.

(iii) The rehabilitation, conversion, or renovation of emergency shelters are subject to the requirements of paragraph (b) of this section.

(2) HUD will not require the religious organization to establish the secular organization before the selection of its application. In such a case, the religious organization may apply on behalf of the secular organization. The application will be reviewed on the basis of the religious organization's financial responsibility and capacity, and its commitment to provide appropriate resources to the secular organization after formation. After formation, a secular organization that is not in existence at the time of the application will be required to demonstrate that it meets the definition of private nonprofit organization contained in § 576.3.

The obligation of funds will be conditioned upon compliance with these requirements.

[61 FR 51549, Oct. 2, 1996]

**§ 576.25 Who may carry out eligible activities.**

(a) *Generally.* As provided in 42 U.S.C. 11373 eligible activities may be carried out by all State recipients and grantees, except States.

(b) *States.* All of a State's formula allocation, except for administrative costs, must be made available to the following entities:

(1) Units of general local government in the State, which may include formula cities and counties even if such cities and counties receive grant amounts directly from HUD; or

(2) Private nonprofit organizations, in accordance with 42 U.S.C. 11373(c).

(c) *Nonprofit recipients.* Units of general local government, territories, and Indian tribes may distribute all or part of their grant amounts to nonprofit recipients to be used for emergency shelter grant activities.

[61 FR 51549, 51550, Oct. 2, 1996]

**Subpart C—Award and Use of Grant Amounts**

SOURCE: 54 FR 46799, Nov. 7, 1989, unless otherwise noted. Redesignated at 61 FR 51550, Oct. 2, 1996.

**§ 576.31 Application requirements.**

(a) *Indian tribes.* After funds are set aside for allocation to Indian tribes under § 576.5, HUD will publish a Notice of Funding Availability (NOFA) in the FEDERAL REGISTER. The NOFA will specify the requirements and procedures applicable to the allocation and competitive awarding of these set-aside funds to eligible Indian tribe applicants.

(b) *States, territories, and formula cities and counties.* To receive emergency shelter grant amounts, a State, territory, or formula city or county must:

(1) Submit documentation required under this part, part 5 of this title, or any other applicable provisions of Federal law; and