
42 U.S. Code § 300ff-13

Type and distribution of grants

(a) Grants based on relative need of area

(1) In general

In carrying out section 300ff-11(a) of this title, the Secretary shall make a grant for each eligible area for which an application under section 300ff-15(a) of this title has been approved. Each such grant shall be made in an amount determined in accordance with paragraph (3).

(2) Expedited distribution

Not later than 60 days after an appropriation becomes available to carry out this subpart for a fiscal year, the Secretary shall, except in the case of waivers granted under section 300ff-15(c) ⁽¹⁾ of this title, disburse 66⅔ percent of the amount made available under section 300ff-20(b) of this title for carrying out this subpart for such fiscal year through grants to eligible areas under section 300ff-11(a) of this title, in accordance with paragraphs (3) and (4).

(3) Amount of grant

(A) In general

Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

- (i) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and
 - (ii) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas;
- which product shall then, as applicable, be increased under paragraph (4).

(B) Distribution factor

For purposes of subparagraph (A)(ii), the term “distribution factor” means an amount equal to the living cases of HIV/AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) in the eligible area involved, as determined under subparagraph (C).

(C) Living cases of HIV/AIDS

(i) Requirement of names-based reporting

Except as provided in clause (ii), the number determined under this subparagraph for an eligible area for a fiscal year for purposes of subparagraph (B) is the number of living names-based cases of HIV/AIDS that, as of December 31 of the most recent calendar year for which such data is available, have been reported to and confirmed by the Director of the Centers for Disease Control and Prevention.

(ii) Transition period; exemption regarding non-AIDS cases

For each of the fiscal years 2007 through 2012, an eligible area is, subject to clauses (iii) through (v),

exempt from the requirement under clause (i) that living names-based non-AIDS cases of HIV be reported unless—

(I) a system was in operation as of December 31, 2005, that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State in which the area is located, subject to clause (viii); or

(II) no later than the beginning of fiscal year 2008 or a subsequent fiscal year through fiscal year 2012, the Secretary, in consultation with the chief executive of the State in which the area is located, determines that a system has become operational in the State that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State.

(iii) Requirements for exemption for fiscal year 2007

For fiscal year 2007, an exemption under clause (ii) for an eligible area applies only if, by October 1, 2006—

(I)

(aa) the State in which the area is located had submitted to the Secretary a plan for making the transition to sufficiently accurate and reliable names-based reporting of living non-AIDS cases of HIV; or

(bb) all statutory changes necessary to provide for sufficiently accurate and reliable reporting of such cases had been made; and

(II) the State had agreed that, by April 1, 2008, the State will begin accurate and reliable names-based reporting of such cases, except that such agreement is not required to provide that, as of such date, the system for such reporting be fully sufficient with respect to accuracy and reliability throughout the area.

(iv) Requirement for exemption as of fiscal year 2008

For each of the fiscal years 2008 through 2012, an exemption under clause (ii) for an eligible area applies only if, as of April 1, 2008, the State in which the area is located is substantially in compliance with the agreement under clause (iii)(II).

(v) Progress toward names-based reporting

For fiscal year 2009 or a subsequent fiscal year, the Secretary may terminate an exemption under clause (ii) for an eligible area if the State in which the area is located submitted a plan under clause (iii) (I)(aa) and the Secretary determines that the State is not substantially following the plan.

(vi) Counting of cases in areas with exemptions

(I) In general

With respect to an eligible area that is under a reporting system for living non-AIDS cases of HIV that is not names-based (referred to in this subparagraph as “code-based reporting”), the Secretary shall, for purposes of this subparagraph, modify the number of such cases reported for the eligible area in order to adjust for duplicative reporting in and among systems that use code-based reporting.

(II) Adjustment rate

The adjustment rate under subclause (I) for an eligible area shall be a reduction of 5 percent for fiscal years before fiscal year 2012 (and 6 percent for fiscal year 2012) in the number of living non-AIDS cases of HIV reported for the area.

(III) Increased adjustment for certain areas previously using code-based reporting

For purposes of this subparagraph for each of fiscal years 2010 through 2012, the Secretary shall deem

the applicable number of living cases of HIV/AIDS in an area that were reported to and confirmed by the Centers for Disease Control and Prevention to be 3 percent higher than the actual number if—

- (aa) for fiscal year 2007, such area was a transitional area;
- (bb) fiscal year 2007 was the first year in which the count of living non-AIDS cases of HIV in such area, for purposes of this section, was based on a names-based reporting system; and
- (cc) the amount of funding that such area received under this part for fiscal year 2007 was less than 70 percent of the amount of funding (exclusive of funds that were identified as being for purposes of the Minority AIDS Initiative) that such area received under such part for fiscal year 2006.

(vii) Multiple political jurisdictions

With respect to living non-AIDS cases of HIV, if an eligible area is not entirely within one political jurisdiction and as a result is subject to more than one reporting system for purposes of this subparagraph:

- (I) Names-based reporting under clause (i) applies in a jurisdictional portion of the area, or an exemption under clause (ii) applies in such portion (subject to applicable provisions of this subparagraph), according to whether names-based reporting or code-based reporting is used in such portion.
- (II) If under subclause (I) both names-based reporting and code-based reporting apply in the area, the number of code-based cases shall be reduced under clause (vi).

(viii) List of eligible areas meeting standard regarding December 31, 2005

(I) In general

If an eligible area or portion thereof is in a State specified in subclause (II), the eligible area or portion shall be considered to meet the standard described in clause (ii)(I). No other eligible area or portion thereof may be considered to meet such standard.

(II) Relevant States

For purposes of subclause (I), the States specified in this subclause are the following: Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Indiana, Iowa, Idaho, Kansas, Louisiana, Michigan, Minnesota, Missouri, Mississippi, North Carolina, North Dakota, Nebraska, New Jersey, New Mexico, New York, Nevada, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, Wyoming, Guam, and the Virgin Islands.

(ix) Rules of construction regarding acceptance of reports

(I) Cases of AIDS

With respect to an eligible area that is subject to the requirement under clause (i) and is not in compliance with the requirement for names-based reporting of living non-AIDS cases of HIV, the Secretary shall, notwithstanding such noncompliance, accept reports of living cases of AIDS that are in accordance with such clause.

(II) Applicability of exemption requirements

The provisions of clauses (ii) through (viii) may not be construed as having any legal effect for fiscal year 2013 or any subsequent fiscal year, and accordingly, the status of a State for purposes of such clauses may not be considered after fiscal year 2012.

(x) Program for detecting inaccurate or fraudulent counting

The Secretary shall carry out a program to monitor the reporting of names-based cases for purposes of this subparagraph and to detect instances of inaccurate reporting, including fraudulent reporting.

(xi) Future fiscal years

For fiscal years beginning with fiscal year 2013, determinations under this paragraph shall be based only on living names-based cases of HIV/AIDS with respect to the area involved.

(D) Code-based areas; limitation on increase in grant

(i) In general

For each of the fiscal years 2007 through 2012, if code-based reporting (within the meaning of subparagraph (C)(vi)) applies in an eligible area or any portion thereof as of the beginning of the fiscal year involved, then notwithstanding any other provision of this paragraph, the amount of the grant pursuant to this paragraph for such area for such fiscal year may not—

(I) for fiscal year 2007, exceed by more than 5 percent the amount of the grant for the area that would have been made pursuant to this paragraph and paragraph (4) for fiscal year 2006 (as such paragraphs were in effect for such fiscal year) if paragraph (2) (as so in effect) had been applied by substituting “66 $\frac{2}{3}$ percent” for “50 percent”; and

(II) for each of the fiscal years 2008 through 2012, exceed by more than 5 percent the amount of the grant pursuant to this paragraph and paragraph (4) for the area for the preceding fiscal year.

(ii) Use of amounts involved

For each of the fiscal years 2007 through 2012, amounts available as a result of the limitation under clause (i) shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the fiscal year involved, subject to paragraph (4) and section 300ff-20(d)(2) of this title.

This document is only available to subscribers. Please [log in](#) or [purchase access](#).

[Purchase Login](#)