



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
Regional Administrator, Region VII  
Gateway Tower II, Room 507  
400 State Avenue  
Kansas City, KS 66101-2406  
HUD Home Page: [www.hud.gov](http://www.hud.gov)

September 7, 2022

Ms. Jenni Miller  
Deputy Director of Operations  
Missouri Housing Development Corporation  
920 Main Street, Suite 1400  
Kansas City, MO 64105-2189

Dear Ms. Miller:

This letter provides a response to the email from Jenni Miller of the Missouri Housing Development Commission (MHDC) on July 18, 2022, to the United States Department of Housing and Urban Development (HUD) Region VII Administrator Ulysses Clayborn regarding the applicability of Missouri House Bill 1606, Section 67.23000 *et seq* ("H.B. 1606") to HUD programs. Your email specifically asked about the following HUD programs: Emergency Solutions Grants (ESG), HOME Investment Partnerships Program (HOME), American Rescue Plan HOME (HOME-ARP), Housing Trust Fund, and Section 811 Project Rental Assistance Program (Section 811 PRA) (collectively "Specified HUD Programs").

Missouri House Bill No. 1606 (MO HB 1606) was approved by Governor Parson on June 29, 2022, and will become effective on January 1, 2023. Based on a non-binding review of the bill, it appears that the relevant section of the bill, 67.23000, contains provisions purporting to:

- 1) reallocate state funds (including federal funds where permitted) designated for "the homeless" to temporary shelters;
- 2) reallocate state funds (including federal funds where permitted) from permanent housing to services including temporary shelter;
- 3) make unauthorized sleeping, camping or construction of long-term shelters on state-owned lands a misdemeanor;
- 4) prohibit political subdivisions from using non-enforcement policies that prohibit or discourage enforcement of anti-camping, sleep and obstruction laws;
- 5) require that state (including federal funds where permitted) funds be cut off to political subdivisions that have higher per capita rates of homelessness than the state until the political subdivisions meet certain requirements; and
- 6) exempt certain domestic violence shelters from these provisions.

HUD encourages MHDC to direct specific questions regarding the interpretation of H.B. 1606, such as what H.B. 1606 covers, requires, or prohibits, to the Missouri Attorney General's Office. HUD does not interpret state laws, but is generally concerned about state laws that may improperly restrict or result in the misuse of HUD funds.

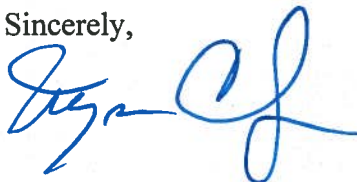
All HUD funds must be expended in accordance with the federal statutes and regulations governing the relevant programs. Generally, these federal statutes and regulations prescribe which entities are eligible to receive HUD funds and the eligible uses of those funds. Accordingly, HUD is concerned that directed uses of "state funds" listed in section 67.2300 may be inconsistent with the eligible uses of the Specified HUD Programs. For example, ESG program funds could not be used for parking areas as they do not meet the definition of an emergency shelter. HOME and HTF funds, which can be used for the rehabilitation or new construction of housing, cannot be used for emergency shelters and other types of facilities, which are explicitly excluded from the definition of housing.

Further, some HUD funding sources, such as CDBG, HOME, HTF and ESG funds, are subject to consolidated planning requirements found in HUD's regulations at 24 CFR part 91. These regulations require jurisdictions to submit a plan to HUD describing how HUD funds will be expended and also require the jurisdictions to consult with their citizens, local organizations, local businesses, and other stakeholders while developing the plan. Accordingly, any state process that allocates or dictates the use of HUD funds must also ensure compliance with any HUD requirements governing the planning processes for the use of the HUD funds. As a reminder, HUD program statutes and regulations hold the recipients of HUD funding (e.g. ESG recipients) responsible for ensuring HUD funds are spent in compliance with program requirements.

In addition to program-specific statutes and regulations, all recipients and subrecipients of federal financial assistance from HUD must comply with federal laws that prohibit discrimination, ensure equal opportunity, and protect civil rights. These laws prohibit discrimination based on race, color, national origin, religion, sex (including gender identity and sexual orientation), age, and disability in all programs, services and activities operated by recipients and subrecipients, regardless of whether the program, service, or activity itself is federally funded. Under these laws, recipients and subrecipients may not discriminate regardless of whether federal funds are used for the discriminatory conduct. Moreover, the Fair Housing Act prohibits States, housing providers and others—whether or not they receive federal financial assistance—from discriminating in housing because of race, color, national origin, religion, sex (including gender identity and sexual orientation), familial status, and disability, whether by intent or effect. 42 U.S.C. §§ 3601-19. In addition to the other responsibilities detailed in this letter, the State, its agencies and employees, and others who operate pursuant to or enforce the law must ensure that this new law does not operate to violate the Fair Housing Act or other civil rights laws, including, for example, by restricting the shelter opportunities of persons of color or with disabilities, limiting families with children to inferior shelter housing, or penalizing persons who fail to comply with the law because of race, national origin or disability.

We hope that this letter provides you with the clarification you were seeking. To the extent MHDC would like to discuss reprogramming HUD funds for specific proposed activities consistent with H.B. 1606, please contact Bruce Ladd at (913) 551-5462 with questions.

Sincerely,



Ulysses M. Clayborn  
Regional Administrator

cc:

Marion McFadden, Principal Deputy Assistant Secretary, CPD  
Demetria McCain, Principal Deputy Assistant Secretary, FHEO  
Michele Perez, Assistant Deputy Secretary, FPM