



**PARTNERS IN CARE
O'AHU CONTINUUM OF CARE**

GOVERNANCE
CHARTER

**JUNE
2022**

*Approved by the
O'ahu CoC*

DEFINITIONS – Key Terms Defined

Ad Hoc Working Group(s) – Ad Hoc Working Groups are established to work on projects or tasks of critical importance to Partners In Care - O’ahu CoC. (PIC - CoC) Ad Hoc Working Groups will have varying durations, dependent on the topic or issue. Ad Hoc Working Groups are made up of staff from the participating agencies and partners within the O’ahu CoC and may include members of the PIC - CoC Advisory Board without establishing a quorum of the PIC - CoC Advisory Board on any Ad Hoc Working Group.

Committees – Committees are established to address mandates and/or topics of critical importance to the O’ahu CoC and specifically referenced in the HEARTH Act. Committees are ongoing in nature and made up of PIC - CoC Advisory Board members, staff from City and County of Honolulu, State of Hawai’i, Hawai’i Interagency Council on Homelessness and CoC members representing sub-populations without establishing a quorum of the PIC - CoC Advisory Board members on any of the Committees.

Committee Chair(s) – Individuals that serve as a Committee lead (on behalf of the PIC - CoC Advisory Board) to ensure activities and/or meetings are occurring as it relates to special projects, initiatives, and ad hoc working groups in order to ensure the assignment, direction and timeframes are being met.

Collaborative Applicant – The collaborative applicant is the entity that submits the annual CoC Consolidated Application for funding on behalf of the CoC and is charged with collecting and combining the application information from all applicants for all projects within the CoC’s geographic area.

Consolidated Plan - A long-term housing and community development plan developed by state and local governments and approved by HUD (24 CFR Part 91). The Consolidated Plan contains information on homeless populations and should be coordinated with the CoC plan.

Continuum of Care (CoC) – Historically, under the McKinney Vento Act, the CoC was a local network that plans and coordinates funding for services and housing to assist homeless individuals and families. With the adoption of the HEARTH Act, the Continuum of Care (CoC) is an entity that implements the HUD CoC program and includes all who elect to participate and are concerned with and/or providing services to the various homeless subpopulations furthering the direction of the HEARTH Act (24 CFR 578 Subpart B).

Continuum of Care Board (PIC - CoC Advisory Board) - This is the official board acting on behalf of the Continuum of Care to take care of all related business requiring direction and/or formal actions acting with the purpose of furthering the mission to end homelessness.

The PIC - CoC Advisory Board is comprised of agency representatives that reflect the sub-populations defined within the HEARTH Act, homeless or formerly homeless individuals, and government agency representatives.

Continuum of Care (CoC) Member – A CoC member can be an individual, agency and/or Representative of a Government Office who are concerned with and/or providing services to the various homeless sub-populations furthering the direction of the CoC. An agency and/or department with more than one individual representing that organization will be recognized as one member.

Continuum of Care (CoC) Program – In May of 2009, the HEARTH Act (24 CFR 578) enacted into law the consolidation of Shelter Plus Care, Supportive Housing Program and Single Room Occupancy grants authorized under the original McKinney Vento Act into a single grant program known as the Continuum of Care. The CoC Program is designed to:

- Promote a community-wide commitment to the goal of ending homelessness
- Provide funding for efforts to rapidly re-house homeless individuals and families
- Promote access to and effective use of mainstream programs
- Optimize self-sufficiency among individuals and families experiencing homelessness

HEARTH Act - Homeless Emergency Assistance and Rapid Transition to Housing Act

The overall approach is predicated on the understanding that homelessness is not caused merely by a lack of shelter, but involves a variety of underlying, unmet needs – physical, economic, and social.

Homeless Management Information System (HMIS) – A Homeless Management Information System (HMIS) is a local information technology system used to collect client-level data and data on the provision of housing and services to homeless individuals and families and persons at risk of homelessness. The Continuum of Care is responsible for selecting a HMIS software solution that complies with HUD’s data collection, management, and reporting standards.

Lead Agency – The Lead Agency is an administrative agent or entity selected by the CoC Board and is designated to carry out the activities of the CoC, including fiscal and compliance activities. Regular administrative tasks may include, but are not limited to: collaborative applicant responsibility, management of the annual HUD application, coordination of other funding opportunities, project and system monitoring, meeting management, etc. For purposes of the CoC Check-up, this excludes staff/staff time related to fiscal or HMIS-related duties.

Sub-population (homeless) - For the purpose of the governance structure, sub-populations are referring to categories of individuals with related, yet distinct, needs that can be addressed through a continuum of care. Representation of the sub-population as required by in the HEARTH Act must be reflected on the PIC - CoC Advisory Board. (Reference Section 3.2)

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APPENDIX

The appendix contains supporting documents to the O’ahu Continuum of Care Governance Structure. Items within each appendix are reference materials only and may be updated and or replaced as needed without the formal approval of the CoC.

- A. Current List of the PIC - CoC Advisory Board Members
- B. Current List of the PIC - CoC Members – Voting and Community Members
- C. PIC - CoC, Committee Responsibilities Chart
- D. PIC - CoC Organizational Chart
- E. The PIC - CoC and Lead Agency / Collaborative Applicant MOU
- F. The PIC - CoC and HMIS Lead MOU
- G. The PIC - CoC CES MOU
- H. PIC - CoC Voting Membership Application Form
- I. PIC - CoC Community Membership Application Form
- J. Conflict of Interest Policy
- K. 24 CFR Part 578 – HUD CoC Interim Rule
- L. McKinney Vento Homeless Assistance Act

1 AUTHORIZATION, NAME AND SERVICE AREA

1.1 AUTHORIZATION

- 1.1.1 In an effort to address the needs of homeless persons in the HI-501 region, the Partners In Care - Continuum of Care (PIC - CoC) established itself to oversee, coordinate, collaborate, plan, and address homeless issues and activities at a regional level.
- 1.1.2 Given the Federal definition of a Continuum of Care Program, the governance charter herein clarifies the goals of the O’ahu CoC, as a single grant program entitled the Continuum of Care that incorporate the rules and regulations defined by the HEARTH Act (24 CFR 578).

1.2 NAME

- 1.2.1 In May of 2009, the HEARTH Act (24 CFR 578) was enacted into law by Congress and gives the Continuum of Care (CoC) membership the authority to create a continuum of care board, which shall be known as the PIC - CoC Advisory Board.

1.3 SERVICE AREA

- 1.3.1 The PIC - CoC Advisory Board services the HI-501 region, comprised of the entire island of O’ahu.

2 O’AHU COC ORGANIZATIONAL STRUCTURE

2.1 O’AHU CONTINUUM OF CARE (CoC)

- 2.1.1 The purpose of the CoC is to carry out designated responsibilities of the HEARTH Act.
- 2.1.2 The CoC planning process was designed to promote the development of comprehensive systems to address homelessness by providing communities with a framework for organizing and delivering housing and services.

2.2 O’AHU COC GENERAL MEMBERSHIP

- 2.2.1 The purpose of the PIC - CoC General Membership is to participate in a year-round strategic planning process that addresses the identified needs of homeless individuals and households; the availability and accessibility of existing housing and services; and the opportunities for linkages with mainstream housing and services resources.

2.3 PIC - COC ADVISORY BOARD

- 2.3.1 The Purpose of the PIC - CoC Advisory Board is to provide a governance structure that will organize the CoC’s year-round strategic planning process that is coordinated, inclusive, and outcome oriented.
- 2.3.2 The purpose of the board is to act on behalf of the PIC - CoC's general membership.

- 2.3.3 The PIC - CoC Advisory Board will designate a Lead Agency for each of the following activities: (1) Operate the CoC (2) Act as the Lead HMIS for the PIC - CoC (3) Carry out the PIC - CoC Planning activities (4) Operate a CES and (5) Carry out responsibilities of the collaborative applicant.

2.4 O'AHU COC COMMITTEES

- 2.4.1 The Purpose of the PIC - CoC Committees is to meet the operational needs of the CoC.
- 2.4.2 Committees will research, brainstorm, discuss and/or evaluate in order to develop recommendations to the PIC - CoC Advisory Board. Committees may include sub-working groups as needed.
- 2.4.3 The purpose and scope for each Committee shall be defined at the time the committees are created and will develop their own policies and procedures that are consistent with the governance structure and adopted by the PIC - CoC Advisory Board.

2.5 O'AHU COC LEAD AGENCY

- 2.5.1 For the purposes of this document the Lead Agency is synonymous with the Collaborative Applicant and as such, takes on all responsibilities of the collaborative applicant.
- 2.5.2 A Lead agency provides the coordination and oversight of the CoC strategic planning efforts and has the authority to certify and submit the CoC homeless assistance funding application as the Collaborative Applicant.

3 DESIGNATED HEARTH ACT RESPONSIBILITIES

3.1 PIC - COC RESPONSIBILITIES

- 3.1.1 Establish a board to act on behalf of the Continuum of Care. This board must
 - 3.1.1.1 Be a representative of the relevant organizations and of projects serving homeless subpopulations.
 - 3.1.1.2 Include at least one individual with lived experience
 - 3.1.1.3 Include one State representative appointed by the Governor and one City and County representative appointed by the Mayor. Include one representative elected by the Oahu Youth Action Board
- 3.1.2 Hold meetings of the full membership, with published agenda at a minimum of one time per year.
- 3.1.3 At least annually, publicly make an invitation for new members to join.
- 3.1.4 Adopt and follow a written process to select a board to act on behalf of the PIC - CoC. The process must be reviewed, updated, and approved by the CoC at least once every 5 years. (See section 5.2)
- 3.1.5 Appoint additional committees, subcommittees, or workgroups (as needed).

- 3.1.6 In consultation with the HMIS Lead, develop, follow, and update the governance charter at least once within a 5-year timeframe, which will include all procedures and policies needed to comply with 24 CFR 578 Subpart B and with the HMIS requirements from HUD; and a code of conduct and recusal process for the board, its chair and any person acting on behalf of the board.
- 3.1.7 Consult with recipients and sub-recipients to establish performance targets appropriate for population and program type, monitor recipient and sub-recipient performance, evaluate outcomes, and take action against poor performers.
- 3.1.8 Evaluate outcomes of projects funded under the Emergency Solutions Grants program and the Continuum of Care Program, and report to HUD
- 3.1.9 In consultation with recipients of Emergency Solutions Grants program within the geographic area, establish and operate either a centralized or coordinated assessment system that provides an initial, comprehensive assessment of the needs of individuals and families for housing and services.
- 3.1.10 The PIC - CoC must develop a specific policy to guide the operation of the centralized or coordinated assessment system on how its system will address the needs of individuals and families who are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, or stalking, but who are seeking shelter or services from non-victim service providers. This system must comply with any requirements established by HUD.
- 3.1.11 In consultation with recipients of Emergency Solutions Grants program within the geographic area, establish, and consistently follow written standards for providing Continuum of Care assistance.
- 3.1.12 Consult annually with the City and County of Honolulu in determining how to allocate its ESG for eligible activities.
- 3.1.13 Designate and operate an HMIS, per 24 CFR 578 Subpart B.
- 3.1.14 Update and maintain the Continuum of Care plan, per 24 CFR 578 Subpart B.
- 3.1.15 Prepare and oversee the development and submission of the annual application for CoC funds.
- 3.1.16 Establish funding priorities for funding projects in its geographic area.
- 3.1.17 Design, operate and follow a collaborative process for developing applications and approving the submission of applications in response to a HUD NOFA in concert with the funding priorities and plan adopted by the PIC - CoC.
- 3.1.18 Designate the Collaborative Applicant in conjunction with the reauthorization of the governance structure (every 5 years) or as needed.

4 PIC COC GENERAL MEMBERSHIP

4.1 GENERAL MEMBERSHIP STURUCTURE

- 4.1.1 To be eligible for funds under the Continuum of Care program, representatives from relevant organizations within the HI-501 geographic area, must establish a Continuum of Care to: (1) Operate the Continuum of Care (2) designate an HMIS for the Continuum of Care (3) designate a CES coordinator (4) designate a Lead Agency (5) plan for the Continuum of Care.
- 4.1.2 The PIC - CoC General Membership allows the PIC - CoC Advisory Board and the PIC - CoC Lead Agency to act on their behalf.
- 4.1.3 Members may be individuals or agency representatives; Membership is open to the general public
- 4.1.4 On behalf of the PIC - CoC, the Lead Agency will issue a public invitation for new members to officially join the Continuum of Care from within the service area on an annual basis.

4.2 GENERAL MEMBERSHIP RESPONSIBILITIES

- 4.2.1 The PIC - CoC general membership decides on a process for selecting a Board to govern the operations and planning of the CoC.
- 4.2.2 The PIC - CoC general membership votes to approve a Governance charter every 5 years and on an as-needed basis.
- 4.2.3 The designation of the Lead Agency is valid for a maximum of 5 years before the designation must be reviewed and renewed by the PIC - CoC General Membership and the PIC - CoC Advisory Board. No requirement for a request for proposals (RFP) will be made if no other agencies are interested.
- 4.2.4 In response to negligence or poor performance of the CoC lead Agency, the PIC - CoC reserves the right to open an RFP process prior to the five-year mark and designate a new CoC Lead agency.

4.3 VOTING MEMBERSHIP

- 4.3.1 A PIC - CoC member can be an individual, agency and/or representative of a Government Office who is concerned with and/or providing services to the various homeless sub-populations furthering the direction of the PIC - CoC. An agency and/or department with more than one individual representing that organization will be recognized as one member
- 4.3.2 The PIC - CoC Voting Members shall have voting privileges for all items on the PIC - CoC agenda requiring a formal action, as published on the agenda. Voting privileges shall be one vote per PIC - CoC member individual and one vote per PIC - CoC member agency.

4.4 VOTING MEMBERSHIP RESPONSIBILITIES

- 4.4.1 Complete and sign an annual PIC - CoC Membership Packet (Including the Membership Application Form, Participation agreement & Voting Member Conflict of Interest Disclosure Form)

- 4.4.2 Pay annual dues or request and receive a fee waiver
- 4.4.3 Attend the majority of the PIC - CoC's general meetings each year to align with the HUD NOFA requirements.
- 4.4.4 Join, attend, and contribute to a majority of committee meetings each year to align with the HUD NOFO requirements.
- 4.4.5 Vote at the PIC - CoC General Membership Meetings as well as any special PIC - CoC meetings that may occur.
- 4.4.6 Become a member of and attend most meetings of one of the committees of PIC - CoC

4.5 COMMUNITY MEMBERSHIP

- 4.5.1 Any individual or agency that has not completed the voting membership requirements, may become a nonvoting member of the PIC - CoC

4.6 COMMUNITY MEMBERSHIP RESPONSABILITES

- 4.6.1 Complete and submit an annual PIC - CoC Community Membership Form
- 4.6.2 Attend at least two PIC - CoC General Membership Meetings
- 4.6.3 Attend or participate in PIC - CoC activities each year including the Point in Time Count, Homeless Awareness Week events, Annual Conference, etc.
- 4.6.4 Community Memberships are encouraged to adhere to the Voting Membership requirements in Section 3.3.

4.7 HUD FUNDED PROGRAMS: MEMBERSHIP

- 4.7.1 Members that receive HUD funding through the CoC and/or ESG programs are required to adhere to the following:
 - 4.7.1.1 Timely payment of the PIC - CoC annual membership fee (See section 3.7).
 - 4.7.1.2 Sign and adhere to the PIC - CoC Agreement (Agencies will not be considered for any funding via the CoC for HUD funding without signature to the agreement).
 - 4.7.1.3 Adherence to the policies and procedures of the Homeless Management Information System (HMIS).
 - 4.7.1.4 Ensure that the agency is completing and entering HMIS intake, service utilization, and discharge data in a timely and accurate manner as required by the PIC - CoC.
 - 4.7.1.5 Comply with the Coordinated Entry System adopted by the PIC - CoC.
 - 4.7.1.6 Comply with PIC - CoC Code of Conduct
 - 4.7.1.7 Ensure that a person with the authority to represent and make decisions and commitments on behalf of their agency attends 75% of general membership meetings.

- 4.7.1.8 Accept any PIC - CoC recommendations that CoC awarded homeless services funds be reallocated to other eligible agencies or de-prioritized in annual renewal applications when it has been determined that significant portions of past funding have not been expended to meet grant requirements. The PIC - CoC may also choose to reallocate funding due to poor performance of grantees.
 - 4.7.1.8.1 The above decision will be done only after significant review by the PIC - CoC Advisory Board.
 - 4.7.1.8.2 The above decision will only be made by the PIC - CoC Advisory Board if the agency is unable to meet the agreed upon goals.
 - 4.7.1.8.3 The above decision requires the PIC - CoC Advisory Board to determine when, where, and how much funding will be shifted so that the PIC - CoC can serve more persons experiencing homelessness and retain the funding.

4.8 MEMBERSHIP FEE

- 4.8.1 The PIC - CoC Advisory Board is granted authority to establish and change a fee schedule as deemed necessary.
- 4.8.2 Any fee schedule established by the PIC - CoC Advisory Board shall include the provision for a waiver so that membership in the PIC - CoC is not closed to economically disadvantaged individuals or groups.
- 4.8.3 Once established, future changes to the fee schedule shall not be considered an amendment to this charter.
- 4.8.4 The PIC - CoC membership application includes the most current Fee Schedule for both individuals and agencies as well as information on how to request a membership fee waiver. Annual membership fees are due in full in January.

4.9 MEMBERSHIP FEE WAIVERS

- 4.9.1 The provision of a Membership fee waiver is reserved to individuals who have lived experience or due to financial hardship.
- 4.9.2 Individual requesting a membership fee waiver must provide a written request to the PIC - CoC Advisory Board.
- 4.9.3 Decisions on fee waiver requests are made on a case-by-case basis by the PIC - CoC Advisory Board after careful consideration of the rationale for the request.

5 PIC - COC ADVISORY BOARD

5.1 PIC - COC ADVISORY BOARD STRUCTURE

- 5.1.1 The PIC - CoC Advisory Board is comprised of representatives from agencies that serve persons, families, youth and veterans experiencing homelessness, at risk of homelessness or those with a history of homelessness as well as representatives from school districts, mental health agencies, hospitals, universities, affordable housing developers, public housing offices, law enforcement agencies, government departments, businesses, social service providers, advocates of persons experiencing homelessness and any other identified stakeholder that benefits the mission of the CoC to the extent these stakeholders are represented in the geographic area and available to participate.
- 5.1.2 One board member may represent the interests of more than one homeless subpopulation, and the board must represent all subpopulations within the CoC to the extent that someone is available and willing to represent that subpopulation on the board. The PIC - CoC Advisory Board is established by the CoC in accordance with the process approved. (*Reference Appendix A - 24 Code of Federal Regulations (CFR) part 578.7(a) (3)*).
- 5.1.3 No more than one representative from the same organization may serve on the PIC - CoC Advisory Board.
 - 5.1.3.1 On a case-by-case basis, subject to approval of the PIC - CoC Advisory Board, the at-large and homeless/formerly homeless positions may be exempt from the maximum number of representatives from the same organization.
- 5.1.4 The PIC - CoC Advisory Board is comprised of the following positions:
 - 5.1.4.1 Chair
 - 5.1.4.2 Vice Chair
 - 5.1.4.3 Secretary
 - 5.1.4.4 Treasurer
 - 5.1.4.5 Chair of Planning and Housing Committee
 - 5.1.4.6 Chair of Data Committee
 - 5.1.4.7 Chair of Advocacy Committee
 - 5.1.4.8 Chair of Membership Relations Committee
 - 5.1.4.9 Chair of the Awareness and Communications Committee
 - 5.1.4.10 Chair of CES Oversight
 - 5.1.4.11 OYAB Committee Chair
 - 5.1.4.11.1 State Representative designated by the Governor
 - 5.1.4.11.2 City Representative designated by the Mayor
 - 5.1.4.11.3 Persons with lived experience of homelessness

5.1.4.11.4 At-Large members representing persons with lived experience not already represented by other PIC - CoC Advisory Board members

5.1.4.11.5 At-Large members representing their communities and committed to the mission of the CoC

5.1.5 The board will contain a maximum of 17 members.

5.1.6 The Officers of PIC - CoC Advisory Board are the Executive Chair (“Chair”), the Vice-Chair, the Secretary, and the Treasurer. All Officers must be voting members.

5.2 PIC - COC ADVISORY BOARD MEMBER SELECTION PROCESS

5.2.1 Representation of the PIC - CoC may expand or be reduced, based on the HEARTH Act requirements or the determination that greater or fewer representation serves in the interest of the CoC while accurately reflecting the relevant organizations and representatives of homelessness subpopulations.

5.2.2 Nominations will be solicited via the Lead Agency. Interested persons can be nominated by a PIC - CoC member or can nominate themselves by completing the O’ahu CoC Nomination Form. All nominees must complete a PIC - CoC Membership Packet by the delineated deadline. Nominations are voted on during the December O’ahu CoC General Meeting, or on an interim basis to fill any vacancy. Nominations may be screened or limited to those persons that represent a homeless subpopulation that is not already represented by other members of the Board.

5.2.3 Each member of the PIC - CoC Advisory Board of Directors is elected for a term of two years. Terms will begin on a staggered basis starting January 1. Board Members may not serve more than two consecutive terms in any position.

5.2.4 No member of the PIC - CoC Advisory Board shall vote upon, or participate in the discussion of, any matter that has a direct financial bearing on the organization that the member represents. This includes all decisions with respect to funding, awarding contracts, and implementing corrective actions. Board members shall also be governed by the PIC - CoC Conflict of Interest Policy.

5.2.5 Board members must disclose any potential conflict when it arises and recuse themselves from voting on issues that would directly and disproportionately affect their agencies.

5.3 PIC - COC ADVISORY BOARD RESIGNATION AND REMOVAL

5.3.1 Unless otherwise provided by written agreement, any representative may resign at any time by giving written notice to the Co-Chairs and Partners In Care.

- 5.3.2 Members may be removed from the Board by a majority vote of remaining Board members for repeated absence, misconduct, failure to participate, or violation of code of conduct policies.
- 5.3.3 When a representative resigns, is removed from the Board, or cannot serve his/her full term for any reason, a special election will be held to fill the unexpired term.

5.4 PIC - COC ADVISORY BOARD RESPONSIBILITIES

- 5.4.1 Establish broad policies and objectives.
- 5.4.2 Select, appoint, support, and review the performance of the Lead Agency.
- 5.4.3 Ensure the availability of adequate financial, human, and other resources.
- 5.4.4 Receive committee recommendations and act on those recommendations on behalf of the PIC - CoC membership.
- 5.4.5 Receive recommended funding decisions from the Evaluation Committee and work with the Collaborative Applicant to represent these decisions in the HUD CoC Program application.
- 5.4.6 Act on behalf of the Lead Agency in accordance with established contracts, MOUs, and other formally adopted documents.
- 5.4.7 Support the Lead Agency Executive Director in assuring compliance with applicable standards, regulations, requirements, and guidelines. These include but are not limited to:
 - 5.4.7.1 Coordinated Entry System
 - 5.4.7.2 Emergency Solutions Grants (ESG)
 - 5.4.7.3 Consolidated Plan
 - 5.4.7.4 Project performance monitoring
 - 5.4.7.5 Homeless Management Information System
- 5.4.8 In consultation with sub-recipients of Emergency Solutions Grants program funds within the geographic area, establish, and consistently follow written standards for providing Continuum of Care assistance. At a minimum, these written standards must include:
 - 5.4.8.1 Policies and procedures for evaluating individuals and family's eligibility for assistance;
 - 5.4.8.2 Policies and procedures for determining and prioritizing which eligible individuals and families will receive transitional housing assistance
 - 5.4.8.3 Policies and procedures for determining and prioritizing which eligible individuals and families will receive rapid rehousing assistance;
 - 5.4.8.4 Standards for determining what percentage or amount of rent each program participant must pay while receiving rapid rehousing assistance;
 - 5.4.8.5 Policies and procedures for determining and prioritizing which eligible individuals and families will receive permanent supportive housing assistance.

5.5 The PIC - CoC ADVISORY BOARD OFFICERS

- 5.5.1 The officers of PIC - CoC Advisory Board are the Executive Chair (“Chair”), the Vice-Chair, the Secretary, and the Treasurer. All Officers must be voting members.
- 5.5.2 The PIC - CoC Advisory Board Officers are authorized to act on behalf of the CoC membership when time is of the essence. In handling of controversial issues which have not been considered by general membership, the CoC Chair, Advocacy Committee Chair, and the Lead Agency Executive Director are authorized to provide general comment and informational testimony only.

5.6 DUTIES OF OFFICERS

5.6.1 Executive Chair

- 5.6.1.1 Schedule and facilitate meetings of the PIC - CoC Advisory Board.
- 5.6.1.2 Following approval by the PIC - CoC Advisory Board, sign contracts, MOUs, and other documents on behalf of the CoC.
- 5.6.1.3 Serve as a liaison with regard to general funding issues or regulatory matters.
- 5.6.1.4 Serve as the CoC’s primary liaison to the Lead Agency. Work in collaboration with the Lead Agency to implement the Strategic Plan and assure compliance with the Governance Charter.
- 5.6.1.5 Oversee the above responsibilities when delegated to the Collaborative Applicant or other individual or entity.

5.6.2 Vice-Chair

- 5.6.2.1 Assist the Executive Chair as requested.
- 5.6.2.2 Act on behalf of the Executive Chair in the event that the Executive Chair is temporarily unavailable.
- 5.6.2.3 Serve as the point of contact for formal grievances and matters relating to ethics.

5.6.3 Secretary

- 5.6.3.1 Record and maintain the PIC - CoC general membership files including the PIC - CoC membership packets and agreements, PIC - CoC General Membership Meeting minutes, Board meeting attendance lists.
- 5.6.3.2 Disseminate information, coordinate PIC - CoC Advisory Board and General membership meeting agendas, dates and locations, post announcements, and maintain and update the PIC - CoC roster and list serve.
- 5.6.3.3 Provide current information as to which members are voting members and read voting member list to gather attendance at general PIC - CoC meetings.
- 5.6.3.4 Oversee the above responsibilities when delegated to the CoC Collaborative Applicant or other individual or entity.

5.6.4 Treasurer

- 5.6.4.1 Oversee the O'ahu CoC finances and bank accounts, provide monthly balance of the O'ahu CoC's account at General membership meetings, and make payments with approval from the PIC - CoC Advisory Board or the PIC - CoC Advisory Board Executive Chair.
- 5.6.4.2 Collect dues from members, record receipts, and report status of members.
- 5.6.4.3 Make all O'ahu CoC finances and bank account balance freely accessible upon request for inspection by any member of the PIC - CoC Advisory Board.
- 5.6.4.4 Provide a written financial report to the PIC - CoC Advisory Board on a quarterly basis.
- 5.6.4.5 Review financial reports for all PIC - CoC related income/expenses. Receive checks for deposit (and/or cash), from the PIC Director, processes for deposit and reconcile against monthly bank statement in a timely manner.
- 5.6.4.6 Oversee the above responsibilities when delegated to the PIC - CoC Collaborative Applicant or other individual or entity.

6 PIC - COC COMMITTEES

6.1 PIC - COC COMMITTEE STRUCTURE

- 6.1.1 All PIC - CoC Advisory Board members or their alternate shall serve on at least one Committee. Board members who have conflicts with attending Committee meetings shall contact the respective Committee Chair to develop alternative means of participation. Committees should remain open to public participation.
- 6.1.2 PIC - CoC General Members with voting privileges are entitled to vote on Committee recommendations made to the PIC - CoC Advisory Board. Committee members are entitled to one vote per agency.
- 6.1.3 All fiscal and policy matters must be forwarded to the PIC - CoC Advisory Board with recommendations by the Committee. The CES Oversight Committee retains privileges to enact policy changes without board approval under circumstances where waiting for board approval would deny an individual or family housing.

6.2 COMMITTEE CHAIR MEMBERSHIPS

- 6.2.1 Available Committee Chair positions are publicized via the Lead Agency. Interested persons can be nominated by a PIC - CoC member or can nominate themselves by completing a PIC - CoC Nomination Form. Nominations are voted on during the Annual PIC - CoC meeting or as needed
- 6.2.2 Committee Chairs are limited to four consecutive years in any one position.

6.3 COMMITTEE CHAIR RESPONSABILITIES

- 6.3.1 Committee Chairs schedule and lead committee meetings, assign tasks to committee members, monitor member attendance, and follow up with committee members who have been absent from committee meetings.
- 6.3.2 Committee Chairs represent the PIC - CoC to state and city homeless planning divisions and policy academies in relation to homelessness issues, and document PIC - CoC participation in outside activities.
- 6.3.3 The Committee Chair is responsible for disseminating regular updates to the PIC - CoC membership to communicate meetings and events; updates, decisions, and actions.

6.4 PIC - COC COMMITTEE RESPONSABILITES

- 6.4.1 At the adoption of the governance charter, the following Committees are established with associated responsibilities.
- 6.4.2 The Awareness and Communications Committee is charged with the following items
 - 6.4.2.1 Increase community awareness of the PIC - CoC
 - 6.4.2.2 Engage community partners
 - 6.4.2.3 Provide trainings and awareness activities for community groups and other stakeholders to address stigma and “Not in my backyard” concerns.
 - 6.4.2.4 Coordinate the annual Statewide Homeless Awareness Week events
 - 6.4.2.5 Assist the Lead Agency and the PIC - CoC Advisory Board develop news releases and provide feedback to the community.
 - 6.4.2.6 Create an Awareness Plan to address education on the issues relating to homelessness for the broad community.
- 6.4.3 The Membership Relations Committee is charged with the following items
 - 6.4.3.1 Develop initiatives to solicit and orient new general members.
 - 6.4.3.2 Oversee the recruitment and selection of the PIC - CoC Advisory Board members, and present nominations for a vote at the December O’ahu CoC general meeting or as needed on an interim basis.
 - 6.4.3.3 Collaborate with the Awareness Committee to solicit names of potential new committee members from existing PIC - CoC members.
 - 6.4.3.4 Conduct annual review of COC governance charter, and all referenced policies and procedures, and make recommendations for changes, first to Board of Directors and then to general membership for approval.
 - 6.4.3.5 Develop strategies to engage stakeholders that are typically underrepresented in the PIC - CoC and expand the invitation list to include a broader range of community groups
 - 6.4.3.6 Recruit members to join the PIC-CoC and provide new member orientation and training.
 - 6.4.3.7 Address challenges identified by PIC-CoC members.

- 6.4.4 The Planning and Housing Committee is charged with the following items
 - 6.4.4.1 Coordinate with the Lead Agency to complete the annual CoC Program funding application
 - 6.4.4.2 Regularly update Hawai`i's Plan to End Homelessness
 - 6.4.4.3 Make recommendations to the PIC - CoC Advisory Board to present to the general membership for discussion and approval.
 - 6.4.4.4 Develop recommendations for funding priorities
 - 6.4.4.5 Develop recommendations for funding strategies and other cross-agency funding opportunities.
 - 6.4.4.6 Develop recommendations for the PIC - CoC Advisory Board for the criteria by which new and existing HUD CoC funded projects are evaluated and scored, as well as whether new projects will be included in each year's application.
 - 6.4.4.7 Evaluate outcomes of projects funded under the ESG and CoC programs and provide findings to the Board of Directors for HUD reporting purposes.
 - 6.4.4.8 Represent the PIC - CoC at legislative task force meetings to assist in developing policies regarding long-range planning, funding, and evaluation of initiatives to prevent and reduce homelessness.
 - 6.4.4.9 Train the Ad-Hoc Evaluation Committee members with regard to the PIC - CoC Advisory Board's process and criteria for making funding decisions. Develop and implement the PIC - CoC Advisory Board's Communications Plan
 - 6.4.4.10 Develop strategies for community partnerships and outreach
 - 6.4.4.11 Develop strategies for media and online communication channels
 - 6.4.4.12 Develop messaging for elected officials and policy makers, including relevant data, in collaboration with the Advocacy Committee.
 - 6.4.4.13 Develop relationships with elected officials and staff by conducting in person meetings and providing data specific to legislative/council districts
 - 6.4.4.14 Design and develop marketing collateral (print, web, and social media)
 - 6.4.4.15 Support media coverage of the Annual Homeless Awareness Conference
 - 6.4.4.16 Implement a communications calendar to include earned media (press releases/conferences), website promotion and social media that aligns with strategic goals and initiatives of committees and membership
 - 6.4.4.17 Implement the communications strategy for release of annual PIT count report
 - 6.4.4.18 Develop and coordinate a speakers' bureau to deliver Homeless 101 curriculum to reduce the stigma of homelessness, increase the community's understanding of homelessness, and encourage compassion towards homeless persons.
 - 6.4.4.19 work with stakeholders to develop a housing plan for the PIC - CoC
- 6.4.5 The Data Committee is charged with the following items
 - 6.4.5.1 Provide counsel and assistance to the HMIS Lead, governing bodies, and contributing providers within the CoC on all matters regarding HMIS.

- 6.4.5.2 Assist with the coordination of the annual Point-In-Time count for O’ahu.
 - 6.4.5.3 Disseminate information to the PIC - CoC Advisory Board about committee activities, minutes, membership, and approved policies & procedures.
 - 6.4.5.4 Review, revise, and approve a privacy plan, security plan, and data quality plan for HMIS.
 - 6.4.5.5 Ensure consistent participation of recipients and sub-recipients in HMIS.
 - 6.4.5.6 Ensure HMIS is administered in compliance with HUD requirements.
 - 6.4.5.7 Ensure participation in HMIS to collect unduplicated counts of homeless people, analyze patterns of program use, determine needs, and operate in accordance with data protection and confidentiality standards.
 - 6.4.5.8 Approve new providers for HMIS access. If a provider is denied access the agency can appeal the decision by submitting a letter of concern to the PIC - CoC Advisory Board for review.
- 6.4.6 The Advocacy Committee is charged with the following items
- 6.4.6.1 Recommend broad strategy, positions of support or opposition, and priorities for legislative advocacy. CoC membership shall approve or reject advocacy committee recommendations by majority vote during a general membership meeting.
 - 6.4.6.2 Act on behalf of PIC - CoC membership to support/oppose bills or issues within the overall strategy, positions, and priorities approved by CoC membership.
 - 6.4.6.3 Establish an issue-based core team of community stakeholders, and delegate to them specific responsibilities. Due to the intensity and volume of tasks needed for effective advocacy, strong support from, and empowerment of, these stakeholders is critical.
 - 6.4.6.4 Post all position statements on the lead agency website
- 6.4.7 The CES Oversight Committee is charged with the following
- 6.4.7.1 Recommend to the PIC - CoC Advisory Board the criteria by which participants in various sub-populations are to be referred into the Coordinated Entry System (CES).
- 6.4.8 The O’ahu Youth Action Board is charged with the following
- 6.4.8.1 Assist in guiding, informing, and influencing the development and implementation of the Coordinated Community Plan and projects aimed at preventing and ending youth homelessness.
 - 6.4.8.2 Serve as an approving authority in any request for funds from the US Dept. of Housing and Urban Development that are related to the Youth Homelessness Demonstration Program.
 - 6.4.8.3 Designate a representative from the OYAB to the PIC - CoC Advisory Board.

6.5 AD-HOC WORKING GROUP STRUCTURE

- 6.5.1 Creation of an Ad Hoc Working Group shall be approved by the PIC - CoC Advisory Board. The creation of an Ad Hoc Working Group(s) may be requested by a PIC - CoC Advisory Board member or a Committee Chair, in order to meet the operational needs of the CoC.
- 6.5.2 Ad Hoc Working Groups are formed to do additional research, brainstorm discuss and/or evaluate programs, projects, or issues, in order to provide information, strategies or proposals for the PIC - CoC and/or the PIC - CoC Advisory Board. Periodic updates and/or report outs will be presented to the PIC - CoC Advisory Board and may include recommendations (if appropriate). The subject, composition and scope for each Ad Hoc Working Group shall be defined at the time the working groups are created. Ad Hoc Working groups are encouraged to remain open to public observation and/or participation when appropriate.

6.6 PIC - COC AD HOC WORKING GROUPS

- 6.6.1 At the adoption of the governance charter, the following Ad Hoc Working groups are established
 - 6.6.1.1 The Evaluation Committee is established to score and rank applications for CoC Program funding and consists of PIC voting members who do not receive HUD funding and non-voting members who are knowledgeable about grants. The PIC - CoC Advisory Board is responsible for soliciting nominations each year to determine the make-up of the Evaluation Committee.
 - 6.6.1.2 The Evaluation Committee uses the processes and tools developed by the Planning and Housing Committee (and approved by PIC - CoC members) to score and rank project applications. The Planning and Housing Committee is responsible for providing the Evaluation Committee with the information, data, and training needed to complete this activity in accordance with the PIC CoC-established process. The scoring, ranking, and funding decisions made by the Evaluation Committee are binding.

7 PIC - COC LEAD AGENCY

7.1 PIC - COC LEAD AGENCY STRUCTURE

- 7.1.1 For the purposes of this charter Lead Agency is considered synonymous with Collaborative Applicant.
- 7.1.2 Pursuant to the PIC - CoC Program interim rule the General Membership is responsible for designating an agency to act as a Collaborative Applicant on the PIC - CoC's behalf.

- 7.1.3 The PIC - CoC will entertain applications for the Lead Agency every 5 years, or as needed. The PIC - CoC Advisory Board is responsible for reviewing, evaluating, and making a recommendation to the PIC - CoC.
- 7.1.4 The Lead Agency must be an eligible applicant for CoC Program funds.
- 7.1.5 The MOU between the Lead Agency and the PIC - CoC may contain additional responsibilities beyond those listed in this governance charter.

7.2 PIC - COC LEAD AGENCY RESPONSABILITES

- 7.2.1 The PIC - CoC requires the lead agency to carry out the following CoC activities in relation to Operating the PIC - CoC:
 - 7.2.1.1 Hold meetings of the full membership, with published agendas, at least semi-annually (see Section 5).
 - 7.2.1.2 Make an annual public invitation for new members within the geographic area.
 - 7.2.1.3 Consult with recipients, sub-recipients, and contractors to establish appropriate performance targets for population and program types, monitor recipient and sub-recipient performance, evaluate outcomes, and take action against poor performers.
 - 7.2.1.4 Evaluate outcomes of projects funded under the Emergency Solutions Grants (ESG) and CoC programs and to report the findings to the U.S. Department of Housing and Urban Development (HUD) (see Section 10). Consult with the City and County of Honolulu in developing performance standards for and evaluating the outcomes of projects and activities assisted with ESG funds.
 - 7.2.1.5 Establish and operate a centralized or coordinated assessment system to include, at a minimum, CoC- and ESG-funded programs, including a specific policy to guide the system in addressing the needs of individuals and families who are fleeing, or are attempting to flee, domestic violence, dating violence, sexual assault, or stalking and who are seeking shelter or services from non-victim service providers.
 - 7.2.1.6 Establish and consistently follow written standards for providing CoC assistance in consultation with the sub-recipient(s) of ESG program funds. Consult annually with the City and County of Honolulu in determining how to allocate its ESG grant for eligible activities.
- 7.2.2 The PIC - CoC requires the lead agency to carry out the following activities in relation to CoC Planning:
 - 7.2.2.1 Plan and implement a comprehensive system that aligns with the needs of the homeless population and subpopulations and persons experiencing a housing crisis within O'ahu, including the following components of the system:
 - 7.2.2.1.1 Outreach, engagement, and assessment
 - 7.2.2.1.2 Shelter, housing, and supportive services
 - 7.2.2.1.3 Homelessness prevention strategies

- 7.2.2.2 Plan for and conduct an annual point-in-time count of homeless persons within the geographic area that meets HUD requirements.
- 7.2.2.3 Conduct an annual gaps analysis of the homeless needs and services available on Oahu.
- 7.2.2.4 Provide information required to complete the Consolidated Plan(s).
- 7.2.3 The PIC - CoC requires the lead agency to carry out the following activities as the Collaborative Applicant:
 - 7.2.3.1 The PIC - CoC Advisory Board shall determine if one application for funding will be submitted for all projects within the geographic area or if more than one application will be submitted for the projects within the geographic area.
 - 7.2.3.2 If more than one application will be submitted, the PIC - CoC Advisory Board will designate an eligible applicant to be the collaborative applicant that will collect and combine the required application information from all applicants and for all projects within the geographic area that the Continuum has selected funding.
 - 7.2.3.3 If the PIC - CoC chooses to apply for CoC planning funds, the Collaborative Applicant is the only eligible applicant able to apply for these funds on behalf of the CoC.
 - 7.2.3.4 The Collaborative Applicant works with the Planning and Housing Committee to prepare for and submit the annual CoC Consolidated Application for funding on behalf of the PIC - CoC.
 - 7.2.3.5 The Collaborative Applicant must submit quarterly reports to the Board of Directors on the activities undertaken to accomplish the above responsibilities.
 - 7.2.3.6 In addition, if the Collaborative Applicant receives CoC Planning funds, it must submit reports to the Board of Directors quarterly (or more often if requested) on funding spent and remaining in the grant.

8 MEETINGS

8.1 GENERAL MEETINGS

- 8.1.1 The PIC - CoC General Meetings shall be held at a minimum of twice per year.
- 8.1.2 All PIC - CoC members are expected to review the minutes and materials provided prior to the General Meeting, to contribute to discussions at the meeting, and, if a voting member, be authorized and prepared to vote on agenda items.
- 8.1.3 Non-member attendees are encouraged to participate in membership meetings and Committee Meetings
- 8.1.4 Non-members shall not hold voting privileges

8.2 ANNUAL MEETING

8.2.1 An annual meeting of the PIC - CoC shall be held each year in December at a time and place to be set by the PIC - CoC Advisory Board. The annual meeting will serve as a forum for electing members of the PIC - CoC Advisory Board.

8.3 PIC - COC ADVISORY BOARD MEETINGS

8.3.1 All meetings of the PIC - CoC Advisory Board shall be held at a location stated in the meeting notice. Any meeting, regular or special, of the PIC - CoC Advisory Board may be held by any means of communication by which all Officers participating in the meeting may simultaneously hear each other. All such officers participating in a meeting by this means shall be deemed to be present in person at the meeting.

8.4 SPECIAL MEETINGS OF THE PIC - COC ADVISORY BOARD

8.4.1 Special meetings of the PIC - CoC Advisory Board may be called by the Executive Chair or any two officers of the PIC - CoC Advisory Board.

8.5 PIC - COC COMMITTEE MEETINGS

8.5.1 Committee meetings are open to all members and to the public. Committee meeting minutes shall be posted on the Lead Agency website prior to the next meeting.

8.5.2 Committee meetings may go into executive sessions, thereby excluding non-committee members, to discuss personnel or sensitive membership issues. These sessions will exclude guests who are not formally part of the Committee.

8.6 NOTICE OF MEETINGS

8.6.1 Notices of PIC - CoC Advisory Board meetings, including committee meetings, will be distributed to the PIC - CoC general membership via email in a timely manner. Meetings will also be advertised by the Lead Agency. Agendas will be published in advance by the Lead Agency and made publicly available on the CoC website in advance of the meeting and will be distributed to all attendees during the meeting.

8.7 MINUTES AND TRANSPARENCY

8.7.1 PIC - CoC General Meetings are open to all members and to the public. General Meeting minutes are posted by the Lead Agency within 10 days after their approval by PIC - CoC Voting Members.

8.8 VOTING

8.8.1 Each voting member (individual or agency), including those that have received membership fee waivers, is allowed one vote per action item. Under certain circumstances CoC members shall publicly recuse themselves from the vote.

- 8.8.2 The PIC - CoC Advisory Board Executive Chair shall not vote except in the case of a tie, in which case they will cast the deciding vote.
- 8.8.3 Any voting member has the right to call a motion or any action to a vote.
- 8.8.4 Votes are conducted via:
 - 8.8.4.1 Majority Vote at regularly scheduled meetings
 - 8.8.4.2 A quorum of voting members (defined as fifty percent of voting members) must be present at the meeting to approve action items.
 - 8.8.4.3 Electronic Ballot emailed to each voting member with:
 - 8.8.4.4 "Action Required" in the subject line
 - 8.8.4.5 A clear description of the proposed action
 - 8.8.4.6 A deadline by which ballots must be received in order to be counted.
- 8.8.5 Issues may be discussed in the absence of a quorum, but no votes can be taken, or recommendations made.

8.9 ACTION BY THE PIC - COC ADVISORY BOARD WITHOUT A MEETING

- 8.9.1 Any action required or permitted to be taken at a meeting of the PIC - CoC Advisory Board may be taken without a meeting if the action is taken by all Officers and members of the PIC - CoC Advisory Board. The action must be evidenced by one or more written consents describing the action taken, signed by each Officer and member of the PIC - CoC Advisory Board, whether manually or by Electronic Signature, and filed with the records of the meetings of the PIC - CoC Advisory Board.
- 8.9.2 Action taken without a meeting is effective when the last Officer signs and dates or delivers (including by means of Electronic Transmission) the consent, unless the consent specifies a different effective date. Such consent in writing shall have the same effect as unanimous vote of the PIC - CoC Advisory Board.

9 HOMELESS MANAGEMENT INFORMATION SYSTEM GOVERNANCE

9.1 HMIS DESIGNATION

- 9.1.1 Pursuant to 24 CFR 578 Subpart B, the PIC - CoC is responsible for designating and operating an HMIS. These responsibilities are further outlined in the attached HMIS Memorandum of Agreement.
- 9.1.2 Designation of an eligible applicant to manage the PIC - CoC's HMIS, known as the HMIS Lead.
- 9.1.3 The HMIS Lead and the O'ahu CoC will agree upon and sign a Memorandum of Understanding that shall define roles and responsibilities of each party. (See Appendix)

10 THE PIC - COC CODE OF CONDUCT

10.1 CODES OF CONDUCT

- 10.1.1 It is the responsibility of all PIC - CoC members, not just the Officers, Board Members, or Committee Chairs, to ensure a safe and inclusive environment for all.
- 10.1.2 All PIC - CoC participants, Lead Agency employees, PIC - CoC members, Committee members, and Officers must agree to abide by the PIC - CoC Code of Conduct and shall:
 - 10.1.2.1 Treat each other in a professional business manner and with respect and dignity.
 - 10.1.2.2 Ensure that all PIC - CoC participants, PIC - CoC members, Committee members and Officers are able to participate in PIC - CoC meetings, activities and discussions in an environment that is free of harassment, bullying and discrimination.
- 10.1.3 The following behavior will not be tolerated in any form, including but not limited to:
 - 10.1.3.1 unwelcomed remarks, gestures, or physical contact; the display, distribution, or circulation of derogatory, discriminatory, or sexually explicit materials; offensive, derogatory, or discriminatory comments or jokes; verbal abuse; physical abuse; or threats of harm.

10.2 VIOLATIONS OF THE CODE OF CONDUCT POLICY

- 10.2.1 If any PIC - CoC participants, Lead Agency employees, PIC - CoC members, Committee members or Officers have reasonable cause to believe a participant or member has violated the Code of Conduct, they shall inform the Vice Chair in writing, who shall inform the participant or member of the complaint and afford the participant or member an opportunity to respond to the complaint. After hearing the participant's or member's response, the Vice Chair shall inform the PIC - CoC Advisory Board of the complaint and response.
- 10.2.2 The PIC - CoC Advisory Board shall determine if the participant or member violated the Code of Conduct and shall take appropriate corrective action.
- 10.2.3 After hearing a disclosure of the complaint, response and review of all material facts, the PIC - CoC Advisory Board will determine if a violation of the Code of Conduct occurred.
- 10.2.4 After exercising due diligence in determining whether a violation of the Code of Conduct occurred, the PIC - CoC Advisory Board will report its findings to the appropriate persons, committee or to the PIC - CoC General Membership.

- 10.2.5 If a violation has been determined to have occurred, the PIC - CoC Advisory Board shall determine the appropriate corrective action including but not limited to termination of the PIC - CoC membership or reporting to the participant's agency.

11 CONFLICT OF INTEREST

11.1 RECOGNITION OF CONFLICT

- 11.1.1 A conflict of interest occurs when a PIC - CoC participant, Lead Agency employee, PIC - CoC member, PIC - CoC Committee member, and/or PIC - CoC Officer takes an action which results, or has the appearance of resulting in personal, organizational, or professional gain.
- 11.1.2 No participant, employee, member of the PIC - CoC, Advisory Board or its Committees shall knowingly take action to influence the PIC - CoC in such a way as to confer financial benefit on themselves, family members, spouse or partner, or organization in which the participant employee, member of the PIC - CoC, Advisory Board or its Committees, family members, spouse or partner serves in an official capacity.
- 11.1.2.1 Official capacity shall include service as an employee, owner, stockholder, director, board member, consultant, or officer who represents any such entity or organization which seeks to receive funding through the CoC process. Official capacity shall not include service solely as a volunteer (who does not serve as a board member or consultant) or recipient of services.

11.2 DUTY TO DISCLOSE

- 11.2.1 All participants, employees, and members of the PIC - CoC Board or its Committees shall indicate relationships that may present potential conflicts on their annual membership application or an interim basis as the conflict arises to the Vice Chair. Any conflict of interest that is disclosed shall be recorded in the meeting minutes.
- 11.2.2 All participants, employees, and members of the PIC - CoC Advisory Board or its Committees shall also verbally disclose potential conflicts of interest prior to participating in discussions that may result in decisions that may confer financial benefit on themselves, family members, spouse or partner, or organization in which participants, employees and members of the PIC - CoC, Advisory Board or its Committees family members, spouse or partner serves in any official capacity.

11.3 RECUSAL

11.3.1 All participants, employees, and members of the PIC - CoC Advisory Board or its Committees shall recuse themselves, stating reason, from voting on issues that would directly and/or disproportionately affect their agencies. Individuals with a conflict of interest must disclose their conflict of interest prior to any discussion but may participate by stating their position on a particular issue; however, they must remove themselves from the room during further discussion and voting on the issue. The recusal will be noted in the minutes. This applies to all discussions in relation to all PIC - CoC funding allocations and prioritization.

11.4 VIOLATIONS OF THE CONFLICT-OF-INTEREST POLICY

11.4.1 If any person has reasonable cause to believe an individual has failed to disclose actual or possible conflicts of interest, they shall inform the Vice Chair in writing, who shall inform the individual with potential conflict of the basis for such belief and afford the individual an opportunity to explain the alleged failure to disclose. After hearing the individual's response, the Vice Chair shall inform the PIC - CoC Advisory Board of the complaint and response, and the PIC - CoC Advisory Board shall determine if the individual failed to disclose an actual or possible conflict, and shall take appropriate corrective action such as, but not limited to, terminating the participants membership.

11.5 DETERMINING WHETHER CONFLICT EXISTS

11.5.1 After hearing a disclosure of potential conflict of interest and reviewing all material facts, the PIC - CoC Advisory Board will determine if a conflict exists without the participation of the individual with the potential conflict of interest.

11.6 ADDRESSING CONFLICT OF INTEREST

11.6.1 After exercising due diligence in determining whether a conflict exists, the PIC - CoC Advisory Board will report its findings to the appropriate persons, committee or to the PIC - CoC General Membership.

11.6.2 If a conflict has been determined to exist, the individual involved will not participate in any decision-making. The PIC - CoC Advisory Board shall determine whether to investigate alternatives that would not involve a conflict of interest.

11.7 ACCEPTANCE OF GIFTS

11.7.1 In the discharge of duties as a member of the PIC - CoC, PIC - CoC Committee member, PIC - CoC Advisory Board Member, or Lead Agency employee, one shall not accept or solicit any personal gift in excess of \$25, or favor where the receipt would either compromise impartial performance or would be viewed by the public as compromising impartial performance.

11.8 FRAUD INTOLERANCE

- 11.8.1 Fraudulent acts by PIC - CoC participants, Lead Agency employees, PIC - CoC members, PIC - CoC Committee members or PIC - CoC Advisory Board Member will not be tolerated and may result in termination from the PIC - PIC - CoC Membership or PIC - PIC - CoC Committee Membership. A PIC - CoC member, PIC - CoC Committee member, employee, or PIC - CoC Advisory Board Member who has reason to believe that there may have been an instance of fraud, improper action, or other illegal act in connection with a PIC - Pic - CoC program, function or activity shall report it immediately to the Vice Chair. Reported instances shall be investigated in a timely manner and if an investigation confirms fraud has occurred, appropriate corrective action will be taken.
- 11.8.2 Fraud refers to but is not limited to: intentionally entering false data into the HMIS or other related systems; any dishonest or fraudulent act; forgery or alteration of any official document; the misappropriation of funds, supplies or PIC - PIC - CoC materials; improper handling or reporting of money or financial transactions; profiting by self or others as a result of inside knowledge; destruction or intentional disappearance of records or equipment; accepting or seeking anything of value from vendors or persons providing services or materials to the PIC - PIC - CoC for personal benefit.

12 AMENDMENTS TO THE GOVERNANCE CHARTER

12.1 SCHEDULED REVIEWS FOR AMENDMENTS

- 12.1.1 The Planning Committee will be responsible for bringing to the PIC - CoC Advisory Board their review of the governance structure on an annual basis, in order to make recommendations for changes.

12.2 NON-SCHEDULED REVIEWS FOR AMENDMENTS

- 12.2.1 Circumstances may arise that that are not explicitly covered by the policies and procedures of this Governance Charter. The lead agency will be responsible for bringing to the PIC - CoC Advisory Board any circumstances for which this governance charter does not provide guidance. A majority vote by the PIC - CoC Advisory Board will be called to rule on any circumstances not covered.
- 12.2.2 There may be instances where the Governance Charter must be amended outside of the annual review conducted by the Planning and Housing Committee. Requests for these amendments will be submitted to the PIC - CoC Advisory Board via the Chair, who will review the requests in collaboration with the Lead Agency. A majority vote of the PIC - CoC Advisory Board will decide if the proposed amendment will be added to the next meeting of the membership. If the vote is added, the membership will vote by majority to decide whether to approve the amendment."

12.3 VOTING ON AMENDMENTS

12.3.1 In the event the Planning and Housing Committee recommends an amendment to the Governance Charter, the amendment must be proposed at a regular PIC - CoC Advisory Board meeting and scheduled for action at a subsequent PIC - CoC meeting. The Governance Charter shall be amended by majority affirmative vote of the PIC - CoC membership in attendance.

12.4 DISTRIBUTION OF ADOPTED AMENDMENTS

12.4.1 Proposed amendments must be provided to all PIC - CoC members within ten (10) business days following the PIC - CoC Advisory Board meetings where the amendment was proposed. Amendments may be distributed via email or whatever latest technology is available at that time.

CHARTER VERSION HISTORY

Date	Comments/Changes
2014	Initial adoption
Jan 20, 2015	Approved by general membership 1/20/15
Aug 16, 2016	Approved by Executive Committee 8/4/16; approved by general membership 8/16/16
June 20, 2017	Approved by the Board of Directors 6/1/17; approved by general membership [date]
January 2021	Approved by the PIC - CoC Advisory Board (formerly the O'ahu CoC Board) January 2021 Approved by the General Membership January 2021
June 2022	Reviewed by the PIC-CoC Advisory Board June 2022

PIC – CoC Advisory Board Members

Chair: Heather Lusk, Hawaii Health and Harm Reduction Center

Vice Chair: Jillian Okamoto, Catholic Charities Hawaii

Treasurer: Morgan Barrett, Family Promise Hawaii

Secretary: Robert Boyack, Child & Family Service

Awareness and Communications Committee: Aura Reyes, Ka Po'e O Kaka'ako (KPoK)

Advocacy Committee: Bob Wardlaw, Project Vision Hawaii

Coordinated Entry System (CES) Oversight Committee: Danny Cheng, Queen's Medical Center

Data Committee: Clair Fujita, Community Empowerment Resources

O'ahu Youth Advisory Board (OYAB): Brandy Gouveia, EPIC 'Ohana

Member Relations Committee: Greg Payton, Mental Health Kokua

Persons with Lived Experience: Kim Nabarro, EPIC 'Ohana **and** Lindsay Pacheco, Hui Aloha

Planning and Housing Committee: Sharon Baillie, Gregory House Programs

2022 CoC Members

Voting Members	
Achieve Zero	Kaiser Permanente
Aloha United Way	Kalihi Palama Health Center
AlohaCare	Kealahou West Oahu
Alternative Structures International	Kina 'Eha
Catholic Charities Hawaii	Legal Aid Society of Hawaii
Catholic Charities Hawaii Housing Development Corporation	Lili'uokalani Trust Youth Services Center
Child and Family Service	Mana Pono Holomua
City and County of Honolulu - EMS Department	Marya Grambs
City and County of Honolulu - Office of Housing	Mental Health Kokua
Community Empowerment Resources	Mike Goodman
Domestic Violence Action Center	North Shore Mental Health
Dynamic Healing Center	Office of Hawaiian Affairs (OHA)
EAH Housing	Ohana Health Plan
EPIC Ohana	Parents and Children Together (PACT)
Faith Action for Community Equity	Project Vision
Family Promise of Hawaii	Queens Medical Center
Gregory House Programs	Residential Youth Services & Empowerment
Habitat for Humanity Leeward	Revive + Refresh
Hale Kipa	River of Life
Hawai'i Youth Services Network (HYSN)	Scott Morishige
Hawai'i Appleseed Foundation	Shelter of Wisdom
Hawai'i Department of Education	State of Hawai'i - Office of Housing and Homelessness Solutions
Hawai'i Health & Harm Reduction Center	Steadfast Housing Development Corporation
Hawai'i Homeless Health Care Hui (H4)	The Radical Hale, Inc.
Hawaii Housing Development Corporation	The Salvation Army
Hawai'i Medical Services Association (HMSA)	The Shelter
Hawaii Pacific Health	Timothy Liu
Hawai'i State Coalition Against Domestic Violence	U.S. Department of Veterans Affairs
Hawaiian Humane Society	U.S. Vets Hawai'i
HCAP - Kumuhonua Transitional Living Center Program	United Health Care
Hoomana Center	Waianae Coast Comprehensive Health Center

Voting Members Continued	
Hope Education Center	Waikiki Business Improvement District Association
Hope Treatment Services (HOPE Inc.)	Waikiki Health
Housing Solutions, Inc.	Waimanalo Health Center
Hui O Hauula	Women In Need
Institute for Human Services	
Community Members	
Block by Block	Michelle Acohidi-Morales (Individual)
East Honolulu Public Health Nursing	Oahu Mutual Aid
Ho'ola Na Pua	The Mediation Center of the Pacific
Ka Hale A Ke Ola Homeless Resource Center	Self-Help Housing Corporation of Hawaii

PIC – CoC Committee Responsibilities Chart

The O’ahu Continuum of Care, Partners In Care 501c3 and CoC Committee’s: Roles and Responsibilities

Reference	Responsibility	Roles and Responsibilities		
		Approval and/or Oversight (Note 1)	Primary Lead	Support Roles
24 CFR 578	Operating a Continuum of Care			
	1. Adopt and follow a written process to select a board to act on behalf of the PIC CoC.	PIC - CoC Full Membership (approval)	PIC - CoC Advisory Board	Lead Agency/Collaborative Applicant
	2. Develop, follow, and update annually the governance charter, which will include all procedures and policies needed to comply with HUD requirements and with HMIS requirements, including a code of conduct and recusal process for the CoC Advisory Board, its chair(s), and any person acting on behalf of the CoC Advisory Board.	PIC - CoC Full Membership (approval)	CoC Advisory Board of Directors	Lead Agency/Collaborative Applicant
	3. In consultation with recipients of Emergency Solutions Grant (ESG) and CoC funds within the PIC CoC’s geographic area, as well as other community stakeholders, establish and operate a coordinated entry system that provides an initial, comprehensive assessment of the needs of individuals and families for housing and services.	PIC - PIC - CoC Advisory Board of Directors (oversight)	HMIS Lead	CES Oversight Committee
	4. In consultation with recipients of ESG and CoC funds within the PIC - CoC, as well as other community stakeholders, establish and consistently follow written standards for providing PIC - CoC assistance.	PIC - PIC - CoC Advisory Board of Directors (approval)	Planning and Housing Committee	Lead Agency/Collaborative Applicant
	5. Consult with funding recipients, subrecipients, and other community stakeholders to establish performance targets appropriate for population and program type.	PIC - CoC Advisory Board of Directors (approval)	Planning and Housing Committee	PIC
	6. Educate the community on homeless issues.	CoC Board of Directors (oversight)	Lead Agency/Collaborative Applicant	Awareness and Communications Committee
	7. Hold meetings of the CoC full general membership, at least semi-annually, and make a public invitation for new members at least annually.	PIC - CoC Advisory Board of Directors	Lead Agency/Collaborative Applicant	PIC General Membership Committee
	8. Monitor performance of CoC and ESG recipients and subrecipients, as well as subrecipients of State funding for homelessness which flows through the PIC - CoC Lead Agency.	PIC – CoC Advisory Board of Directors (oversight)	Planning and Housing Committee	Lead Agency/Collaborative Applicant
	9. Evaluate the outcomes of projects funded under ESG, CoC, and State homelessness funding programs.	CoC Board of Directors (oversight)	Planning Committee	PIC
	10. Provide technical assistance and support to underperforming projects and programs.	CoC Board of Directors (oversight)	Data Committee	PIC
	11. Take appropriate action against ESG-funded, CoC-funded projects	CoC Advisory Board	PIC; HPO and ESG recipients	Planning Committee
12. Report the outcomes of ESG and CoC projects to HUD annually.	CoC Board of Directors (oversight)	Data Committee	PIC	

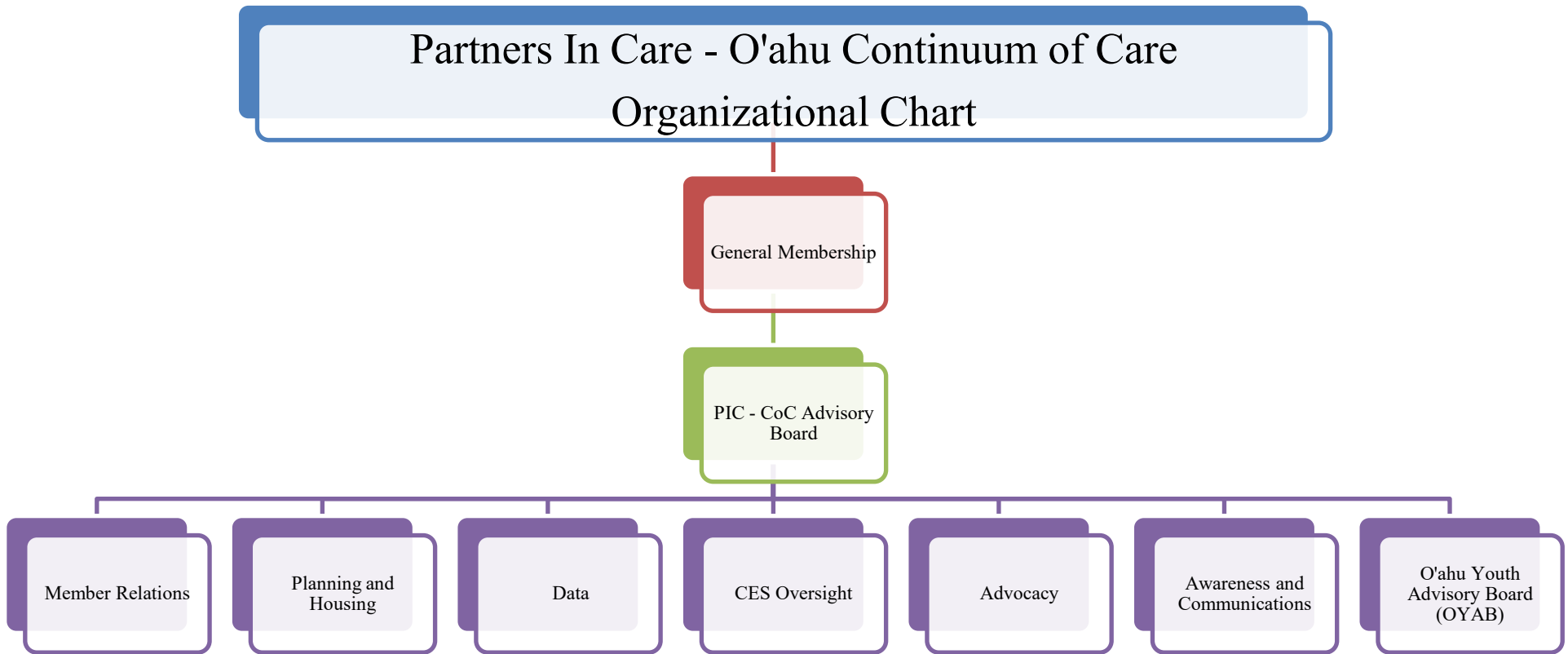
	13. Report the outcomes of State-funded programs to the State of Hawai'i upon request by State.	HPO (Approval / Oversight)	PIC	Data Committee and Planning Committee
24 CFR 578, FS 420	CoC Planning			
	1. Coordinate the implementation of a housing and service system within the CoC's geographic area that meets the needs of individuals and families experiencing homelessness. At a minimum, such a system encompasses the following: a. Outreach, engagement, and assessment. b. Shelter, housing, and supportive services (supportive services include, but are not limited to mental health, substance abuse, medical services). c. Prevention strategies (preventing an episode of homelessness).	CoC Board of Directors (approval)	Planning and Housing Committee and General Membership	PIC
	2. Develop strategies to end homelessness locally, based on the consideration of documented best practices, local needs and gaps, innovations in programs and service delivery, and available and potential resources.	CoC Board of Directors (oversight)	CoC General Membership	PIC
	3. Plan for and conduct an annual point-in-time count of persons experiencing homelessness within the CoC geographic area that meets HUD requirements, including a housing inventory of shelters, transitional housing, and permanent housing reserved for persons who are homeless, in general, and persons who are chronically homeless and veterans experiencing homelessness, specifically, as HUD requires.	CoC Board of Directors (oversight)	PIC	Point In Time Count Sub Committee
	4. Conduct an annual gaps analysis of the needs of people experiencing homelessness, as compared to available housing and services within the CoC geographic area.	CoC Board of Directors (oversight)	PITC Sub Committee & Planning Committee	PIC
	5. Provide information required to complete the Consolidated Plan(s) within the CoC catchment area.	CoC Board of Directors (oversight)	Planning and Housing Committee	PIC
	6. Consult with State and local government ESG recipients within the CoC catchment area on the plan for allocating ESG funds and reporting on and evaluating the performance of ESG recipients and subrecipients	CoC Board of Directors (oversight)	Planning and Housing Committee	PIC
24 CFR 578	Designate an HMIS Lead Agency to Operate HMIS			
	1. Designate a single HMIS for the CoC's catchment area, and an eligible applicant to serve as the CoC's HMIS Lead Agency.	CoC Board of Directors (approval)	CoC Full Membership	PIC, Planning and Data Committee's
	2. Review, revise and approve a CoC HMIS data privacy plan, data security plan, and data quality plan.	CoC Board of Directors (approval)	Data Committee	PIC
	3. Ensure that the HMIS is administered in compliance with HUD requirements.	CoC Board of Directors (oversight)	Data Committee	PIC
	4. Ensure consistent participation by CoC and ESG recipients and subrecipients in the HMIS.	CoC Board of Directors (oversight)	Data Committee	PIC
5. The relationship between the CoC and the HMIS Lead Agency and its responsibilities will be outlined in a Memorandum of Understanding.	CoC Board of Directors (approval)	Data Committee	PIC	

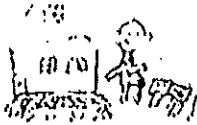
		& PIC Board of Directors (approval)		
24 CFR 578, FS 420	Designate a Single Organization to Serve as Collaborative Applicant and CoC Lead Agency			
	1. Designate a single eligible Collaborative Applicant and CoC Lead Agency to collect and combine the required application information from all applicants for the annual HUD CoC funding competition. This entity also serves as the agency eligible for State of Hawai'i CoC funding related to homelessness, including but not limited to the State Emergency Solutions Grant.	CoC Board of Directors (approval)	CoC Full Membership	PIC and Planning Committee
	2. Establish the local process for applying, reviewing and prioritizing project applications for funding in the annual HUD CoC funding competition, State of Hawai'i Emergency Solutions Grant funding, and any other funding for which the CoC Lead Agency is the eligible applicant on behalf of the CoC.	CoC Board of Directors (oversight)	Planning and Housing Committee	PIC
	3. Establish priorities that align with local and federal policies for recommending projects for HUD CoC grant funding and all funding for which the CoC Lead Agency is the eligible applicant on behalf of the CoC.	PIC - PIC - CoC Advisory Board of Directors (approval)	PIC - PIC - CoC General Membership	Lead Agency & Planning Committee
	4. Determine whether to require the PIC - CoC Lead Agency to apply for Unified Funding Agency designation from HUD.	PIC - CoC Advisory Board of Directors (approval)	Planning and Housing Committee	
	5. Approve the final submission of applications in response to the HUD CoC Notice of Funding Availability and other funding for which the CoC Lead Agency is the eligible applicant on behalf of the CoC.	CoC Board of Directors (approval) PIC Board of Directors	Planning and Housing Committee Lead Applicant	
6. The relationship between the PIC - CoC and the PIC - CoC Lead Agency, and its responsibilities will be outlined in a Memorandum of Understanding.	PIC - Lead Applicant Board of Directors (approval) & PIC - CoC Advisory Board of Directors (approval)	Planning and Housing Committee		

Note 1: "Approval" indicates a requirement for a formal vote of the responsible body. "Oversight" indicates that reports and information will be provided to that responsible body by the lead agency and/or council committee.

Note 2: Define roles and responsibilities of Primary lead and Support Roles

PIC - CoC Organizational Chart





PARTNERS IN CARE
Oahu's Coalition of Homeless Providers

**Memorandum of Understanding
Between Partners In Care (Oahu CoC) & Partners In Care (501c3)
On
The PIC (Oahu CoC) Collaborative Applicant**

Partners In Care (PIC) is the Continuum of Care (CoC) for Oahu, Hawaii, which serves the City and County of Honolulu and includes the following mission:

- Promotes community-wide commitment to the goal of ending homelessness;
- Provide funding for efforts by nonprofit providers, States and local governments to re-house homeless individuals and families rapidly while minimizing the trauma and dislocation caused to homeless individuals, families, and communities as a consequence of homelessness;
- Promote access to and effective use of mainstream programs by homeless individuals and families;
- Optimize self-sufficiency among individuals and families experiencing homelessness;

Partners In Care (Oahu CoC) shall develop policies and procedures conforming to the U.S. Department of Housing and Urban Development (HUD) requirements detailed in 24 CFR part 578.1 to designate an agency to serve as the Collaborative Applicant to support year-round Continuum of Care planning of homeless and homeless prevention housing and services; and

Partners In Care (Oahu CoC) has designated PIC (501c3) to serve as the Collaborative Applicant and as such is the sole eligible applicant for the HUD CoC Program Planning Grant funds.

COLLABORATIVE APPLICANT

Through this Memorandum of Understanding (MOU), the designated Collaborative Applicant agrees to the following:

- Submit the Consolidated Application to HUD on behalf of Oahu CoC in e-snaps by the required due date published in the NOFA in collaboration with the PIC Director's office;
- Applies for CoC planning funds on behalf of Oahu CoC in collaboration with the Director's office and the Board of Directors of Oahu CoC;
- Administers planning funds in a timely manner pursuant to the budget approved by the Board of Directors of PIC Oahu CoC;
- Provides quarterly updates on available planning funds, including budget to actuals variance, to the Board of Directors; and
- Participates in the development of the governance charter with the Board of Directors of PIC.

PIC DIRECTOR'S OFFICE

Through this Memorandum of Understanding (MOU), PIC (Oahu CoC) agrees that the PIC (501c3) Director's office shall manage the required HUD process to ensure the maximum amount of HUD CoC Program funds are received by the CoC and that the CoC is in compliance with all applicable HUD rules and regulations.

PARTNERS IN CARE (501c3) through the Director's office agrees to the following:

MOU Between PIC (Oahu CoC) and PIC (501c3) – Collaborative Applicant

Operations

- Keeps PIC (Oahu CoC) up to date regarding any HUD requirements or resources related to CoC Operations
- Provides staff support to PIC (501c3), Executive Committee (Oahu CoC), and PIC Committees (Oahu CoC)
- Posts and maintains relevant and required information to PIC (Oahu CoC) website including
 - Up to date meeting calendar
 - Meeting agendas
 - Meeting minutes
 - Contact information for persons who would like to join PIC (Oahu CoC)
 - Application for PIC (Oahu CoC) membership

Governance

- Works with PIC (Oahu CoC) as the collaborative applicant to annually review the PIC Governance Charter
- Keeps PIC (Oahu CoC) up to date regarding any HUD requirements or resources related to CoC Governance
- Posts and maintains relevant and required information to PIC (Oahu CoC) website including:
 - Governance Charter
 - PIC (Oahu CoC) Code of Conduct and Conflict of Interest Statement

Planning

- As directed by the PIC (Oahu CoC) Executive Committee, works as the Collaborative Applicant to apply for available HUD CoC Planning funds
- Through discussion with the PIC (Oahu CoC) Board of Directors, the Collaborative Applicant develops a scope of services for CoC Planning funds and intended outcomes
- Works with the Data Committee to complete the annual point-in-time count
- Works with the Planning Committee to complete the annual inventory of housing
- Keeps PIC (Oahu CoC) up to date regarding any HUD requirements or resources related to CoC Planning
- Submits requests to HUD on behalf of the PIC for technical assistance as needed for troubled projects
- Posts and maintains relevant and required information to the PIC website:
 - Electronic Housing Inventory Chart
 - Point-in-Time Count
 - PIC Coordinated Assessment protocols
 - PIC written standards for assistance

Application for Funds

- Drafts the CoC's application for funding under the Continuum of Care program and coordinates the submission of Project applications by the individual projects
- Maintains CoC esnaps profile
- Works with the collaborative applicant to complete CoC registration process including finalizing the Grant Inventory Worksheet with HUD
- Works with Planning Committee to distribute RFP
- Submits project ranking information provided by Evaluation Committee

MOU Between PIC (Oahu CoC) and PIC (501c3) – Collaborative Applicant

- Posts and maintains relevant and required information to the PIC (Oahu CoC) website:
 - Final Grant Inventory Worksheet
 - CoC registration in esnaps
 - RFP for renewal and new projects
 - Tool/process used to rank projects
 - Consolidated Application
 - Project Applications
 - Priority listing
 - APR for each funded project

PIC MEMBERSHIP

Through this Memorandum of Understanding (MOU), Partners In Care (Oahu CoC) as a membership organization agrees to the following:

- Maintains electronic mailing list of all PIC members and committee members; regularly updates mailing list as needed
- Maintains calendar of PIC meetings, committee meetings and other related events;
- Arranges for meeting space
- Publicizes meetings on website and through email mailing list and other means
- Distributes agenda for PIC meetings and committee meetings
- Keeps attendance of PIC and committee meetings
- Drafts and keeps records of meeting minutes
- Ensure that any potential and or perceived conflicts of interest are addressed in an effective, open, and timely manner
- Ensure that the funds and resources needed by the Collaborative Applicant for its work outlined in the roles and responsibilities in this MOU are adequate and available.
- In collaboration with the Director's office, provide to the Collaborative Applicant an annual planning timeline
- Establish funding priorities for CoC Programs and Emergency Solutions Grant assistance through fair, objective, and transparent processes
- In collaboration with the Director's office, drafts the RFP document and process within HUD/NOFA required specifications and timeframes.
- Evaluation Committee establishes priority listing of projects within process/tools developed by Planning Committee and provides to Collaborative Applicant
- Develops CoC performance targets appropriate for each population and program type based on HUD performance standards identified in HUD guidance, NOFAs and notices.
- Provides final review and approval of HUD CoC funding application before submission to HUD
- Develops monitoring protocol and tools to be used by CoC in monitoring performance of ESG and CoC projects
- Identifies appropriate entity to conduct monitoring of CoC projects
- Conduct a performance review of the Collaborative Applicant
- Works through its Planning Committee to provide input about housing and service needs into the Consolidated Plan process
- Works through its Planning Committee to provide input into ESG funding allocations.
- Collects and distributes ESG outcome information from ESG recipients
- Works through its Planning and Executive committees to help implement a coordinated assessment system and written standards for the PIC

It is understood that PIC membership organization and all committees thereof will proactively communicate with the collaborative applicant and Director's office on all above.

DURATION AND RENEWAL

Except as provided in the TERMINATION section, the duration of the MOU shall be from June 1, 2021 through May 31, 2022. This MOU shall be reviewed and renewed, upon mutual agreement, annually.

AMENDMENTS/NOTICES

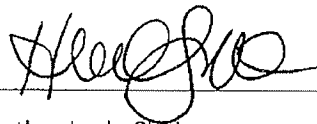
This MOU may be amended in writing by either party and is in effect upon signature of both parties. Notices shall be mailed, emailed or delivered to:

1. Chair of Partners In Care, the Continuum of Care for Oahu, Hawaii, and
2. Executive Director of Partners In Care (501c3)

TERMINATION

Either party may terminate this MOU by giving 120 days written notice to the other party. If the HUD CoC Program Planning Grant funds relied upon to undertake activities described in the MOU are withdrawn or reduced, or if additional conditions are placed on such funding, any party may terminate this MOU within 30 days by providing written notice to the other party. The termination shall be effective on the date specified in the notice of termination.

Signatures:



Heather Lusk, Chair
Partners In Care (Oahu CoC)

16-1-21

date



Laura Thielen, ED
Partners In Care (501c3)

16/1/21
date

**Memorandum of Agreement
Between Partners In Care (Oahu CoC) and Partners In Care (501c3)
On
The Oahu Homeless Management Information System (HMIS)**

This Memorandum of Agreement (hereinafter "MOA"), dated June 1, 2021, is made by and between Partners In Care (Oahu CoC) and Partners In Care (501c3).

Recitals

WHEREAS, pursuant to the U.S. Department of Housing and Urban Development's (HUD) HEARTH ACT, federal regulations state that each Continuum of Care (CoC) must designate one HMIS software and one HMIS Lead in compliance with parts 24 CFR 91, -576, -580, -583.

WHEREAS, in accordance with such federal regulations, Partners In Care, (Oahu CoC)), the HI-501 Continuum of Care, has designated PIC (501c3) the HMIS Lead.

WHEREAS, the PIC Data Committee is a formal planning body comprised of participants and members from Partners In Care (the Continuum of Care for the City and County of Honolulu), that use the Homeless Management Information System.

WHEREAS, Caseworthy Solution has been selected by PIC to be the Oahu HMIS provider and have a single contract with Caseworthy.

WHEREAS, the purpose of this MOA is to clarify the duties and responsibilities of PIC (Oahu CoC) and PIC (501c3) as set forth in the PIC Governance Charter.

NOW THEREFORE, PIC (Oahu CoC) and PIC (501c3) hereby agree as follows:

PIC's (Oahu CoC) duties and responsibilities:

1. Planning and selecting HMIS software and the HMIS Lead agency.
2. Provide assistance in securing funding for HMIS. It is understood that maintaining adequate resources for HMIS is a high priority for PIC (Oahu CoC). Meeting this responsibility, however, is pursuant to availability of HUD funding and other resources. PIC (Oahu CoC) intends to include HMIS project proposals in Tier 1 of HUD CoC Program consolidated applications. In preparation for the CoC Program consolidated applications, the required submission of hard copy proposals is waived for the HMIS Lead.
3. Evaluating the outcomes of HMIS projects in the CoC pursuant to 24 CFR 578.39(a)(2).
4. Establishing HMIS policies/protocols, reviewing HMIS policies/protocols annually, and monitoring compliance with HUD Data and Technical Standards for programs utilizing the Hawaii HMIS within PIC.
5. Providing accurate, reliable data for the following: Annual Homeless Assessment Report (AHAR), Housing Inventory Count (HIC), Point In Time (PIT) Count, HMIS utilization rates, Emergency Solutions Grant (ESG), Consolidated Annual Performance and Evaluation Report (CAPER), data required for the Continuum of Care Application, HUD performance measures, Coordinated Entry System, SASHA

- PATH program, and other HUD required HMIS reporting (note: Domestic Violence agencies are excluded from participating in HMIS).
6. Working with PIC (501c3) to ensure and enforce the standards established by the HMIS Data Quality Plan and the HMIS Security and Privacy Plan system-wide and at the provider-program level.
 7. Approving an annual HMIS plan that will guide HMIS activities and improvements.
 8. Reviewing and approving at least annually HMIS policy documents created through the PIC Data Committee such as the HMIS Data Quality Plan, the HMIS Security and Privacy Plan, and the HMIS Policies and Procedures Manual.

The PIC Data Committee's duties and responsibilities:

1. The PIC Data Committee will be comprised of HMIS experts and community representatives that are capable of making salient recommendations to PIC (Oahu CoC).
2. Making formal HMIS recommendations to PIC (Oahu CoC) based on analysis of program data.
3. Proposing and reviewing HMIS policy documents at least annually.
4. Proposing an annual strategic HMIS plan for PIC (Oahu CoC) that will guide HMIS activities and improvements.
5. Reviewing HMIS budgets and recommendations for funding and to the extent possible, assist with identifying additional sources of funding for HMIS-related costs.

PIC's (501c3) duties and responsibilities:

1. Working with PIC (Oahu CoC) to implement the HMIS recommendations and policies as described above.
2. Working with PIC (Oahu CoC) to locate funds to carry out the annual HMIS plan and to meet matching requirements for the federal, annual CoC application.
3. Working with PIC (Oahu CoC) to ensure and enforce program compliance with the standards established by the HMIS Policies and Procedures, HMIS Data Quality Plan and the HMIS Security and Privacy Plan.
4. Collaborating with PIC to apply for HUD and other HMIS funds.
5. Working in collaboration with PIC (Oahu CoC) leadership in design of HMIS Administrator scope of work.
6. Administering HMIS funds for management of Oahu HMIS operations.
7. Administering HMIS funds to implement the annual HMIS plan that the PIC (Oahu CoC) Data Committee proposes.

Time of Performance:

This MOA shall be in effect from June 1, 2021 through May 31, 2022, unless earlier terminated as provided herein.

Modification of the MOA:

Any modification, alteration, or change to this MOA shall be by mutual, written and executed, amended agreement by all parties listed and signed below.

Termination of the MOA:


This MOA may be terminated earlier than the designated termination date by any of the parties listed and signed below, but only by written notice sent no later than thirty (30) days prior to the termination date. Such notice shall include a brief statement of the reason for the termination.

Binding Effect of the MOA:


This MOA is a binding agreement. It is not intended to create any rights, interests, or remedies for any third-party beneficiaries. Third parties may not rely upon this MOA to assert any claim against PIC (501c3) or any PIC (501c3) employee, whether individually or in their official capacity. The parties are not legally "partners" to the extent that encompasses joint and severability. Each party is responsible for its own employees and representatives.

IN WITNESS WHEREOF, Partners In Care (Oahu CoC), the PIC Data Committee and PIC (501c3) have executed this MOA effective date as written above.

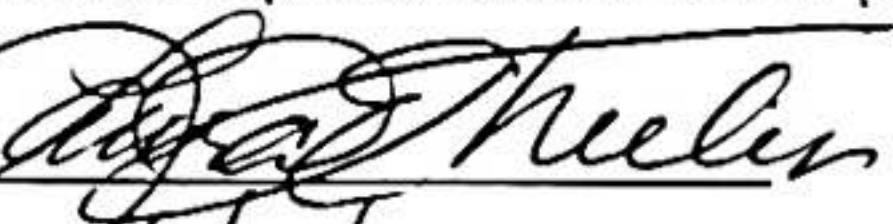
Heather Lusk
Authorized representative of Partners in
Care (Oahu CoC)

By: 
Date: 6-1-21

Claire Fujita
Authorized representative of the
PIC Data Committee

By: 
Date: 6/1/2021

Laura Thielen
Authorized representative of PIC (501c3)

By: 
Date: 6/1/21

**Memorandum of Agreement
Between Partners In Care (Oahu CoC) and Partners In Care (501c3) on
on the Oahu Coordinated Entry System (CES)**

This Memorandum of Agreement (MOA) is made and entered into the 1st day of June, 2021 by Partners-In-Care (PIC), Oahu's Continuum of Care, and Partners In Care (501c3), a Hawaii non-profit corporation.

Background: PIC (Oahu CoC) is required by HUD guidance to operate a Coordinated Entry System (CES) for the Honolulu Continuum of Care. PIC (501c3) was selected as the CES Lead by PIC (Oahu CoC) and awarded the HUD grant to provide CES services. The CES is an integral part of the homeless services provided through PIC (Oahu CoC) and effective operation of the CES requires constant interaction and coordination with the PIC (501c3) Executive Director and HMIS staff. The effectiveness of CES operations will be enhanced by establishing a direct line of supervision over daily activities to the PIC Executive Director (501c3) and the PIC (Oahu CoC) Board of Directors.

Purpose: The purpose of this MOU is to clarify duties and responsibilities of PIC (Oahu CoC) and PIC (501c3) through its Executive Director exercises day-to-day operational control of the CES staff. The PIC (501c3) Executive Director will manage the administrative and programmatic operations of CES at the direction of the PIC (Oahu CoC).

General Agreements:

1. PIC (Oahu CoC):

- a) Intends to include CES project proposals in Tier 1 of HUD CoC Program consolidated applications. In preparation for the CoC Program consolidated applications, the required submission of hard copy proposals is waived for the CES Lead.
- b) will monitor the performance of the CES Staff;
- c) will conduct an annual performance evaluation of the CES Lead that will be provided to PIC's (501c3) human resources department for placement in PIC's (501c3) employment file not later than June 30 of each year; and,
- d) will cause the CES Lead to conduct annual performance evaluations of other CES Staff that will be provided to PIC's (501c3) human resource department for placement in the employee's file not later than June 30 of each year.

2. PIC (501c3):

- a) will recruit, select, hire, evaluate and terminate all CES Staff
- b) will provide office space for the CES Lead and Staff; and
- c) will pay the salary and standard employee benefits of the CES Lead and Staff through PIC's (501c3) payroll system on a cost reimbursement basis through Housing and Urban Development Continuum of Care Planning or CES funds awarded to PIC (501c3) and other available resources.

3. Term

Except as provided in the TERMINATION section, the duration of the MOU shall be from June 1, 2021 through May 31, 2022. This agreement shall renew automatically for an additional 12 months unless either party gives notification pursuant to the Termination section.

4. Modifications of Notices

This MOU may be modified in writing by either party and is in effect upon signature of both parties. Notices shall be mailed, emailed or hand-delivered to each of the persons named below or their designee:

- a) Chair of Partners In Care (Oahu CoC)
- b) Executive Director of Partners In Care (501c3)

5. Termination

Either party may terminate this MOU at a date prior to the renewal date specified in the MOU by giving 60 days written notice to the other party. If the Housing and Urban Development Continuum of Care Program Planning or CES Grant funds relied upon to undertake activities described in this MOU are withdrawn or reduced, or if additional conditions are placed on such funding, any party may terminate this MOU within 30 days by providing written notice to the other party. The termination shall be effective on the date specified in the notice of termination.

6. Compliance with Applicable Laws

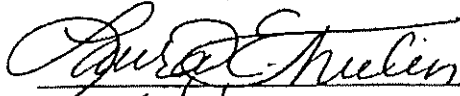
Both PIC (Oahu CoC) and PIC (501c3) warrants and represents that it will, at all times, observe and comply with all federal, state, local and municipal ordinances, rules, regulations and laws related to the provisions of services to be provided hereunder.

Signatures:

Heather Lusk, Chair
Authorized representative of Partners In
Care (Oahu CoC)


Date: 6.1.21

Laura Thielen, Executive Director
Partners In Care (501c3)


Date: 6/1/21

2022 O'ahu CoC Voting Membership Application

* Required

Organization / Agency / Individual Information

1. Organization / Agency / Individual Name *

2. Website *

3. Name of Main Representative *

4. Main Representative's Title *

5. Organization / Agency / Individual Address *

6. Phone Number *

7. Email *

8. Fax Number

Alternate or Additional Representative

9. Name

10. Organization / Agency / Individual Address

11. Phone Number (include area code)

12. Email

13. Fax Number

Membership & Payment

14. What Committee would you like to be a part of? Select all that apply.

For more information on the committee's

roles: <https://www.partnersincareoahu.org/committees> *

- Advocacy
- Awareness
- Communications
- CES Oversight
- Data
- Organizational Development
- Planning Committee

15. Membership Type & Fee *

- Person with lived experience/houseless/formerly houseless (Free)
- Individual (\$50)
- Organization (\$150 - includes access to HMIS)
- Health Plan (\$500)
- Government Agency (\$500)
- Donation

16. How will you be paying for membership? *

Paypal: <https://www.partnersincareoahu.org/contribute>

Check: checks can be addressed to Partners In Care with "2022 Membership" in the memo line. Checks can be mailed or dropped off at Partners In Care's office located at 200 N. Vineyard Blvd. Suite A-210 Honolulu, HI 96817. Checks are due within 2 weeks of submitting your application.

Not Applicable

O'ahu Continuum of Care (CoC) Code of Conduct and Conflict of Interest Policy

Read through the entire policy here: <https://www.partnersincareoahu.org/member-agreements>

Voting Member Participation Agreement Between Partners in Care and Member

Read through the entire agreement here: <https://www.partnersincareoahu.org/member-agreements>

2022 O'ahu CoC Voting Membership Application Submission

17. I have read and agree to the terms and conditions in both the Member Participation Agreement and the Code of Conduct and Conflict of Interest Policy. *

Yes

No

18. Name *

19. Title *

20. E-Signature *

21. Date *

Please input date (M/d/yyyy)





PARTNERS IN CARE – Oahu Continuum of Care O’ahu’s Coalition of Homeless Providers

2022 Voting Membership Application

Period of Performance for this Agreement

This Agreement is effective on the date it is signed. **This agreement shall be in good standing until December 31, 2022.**

Roles and Responsibilities

The foundation and intent of PIC is to coordinate system activities and to help build the system for homeless services. Therefore, we encourage new providers to review what is already in existence before developing more of a particular service, (geographical area of service to be delivered, subpopulation served, type of service to be provided, collaboration with other area providers, how it will fit with the general goals of PIC).

Major responsibilities and expectations for both PIC and Agencies are listed in this section.

Partners In Care AGREES TO:

1. Facilitate Monthly Meetings

PIC will hold monthly meetings to provide updates, program reports, committee reports, and to disseminate event publicity and information to the general membership.

PIC will operate under a Sunshine Policy of being transparent with respect to all information, plans and meetings with government officials, leaders of the communities and PIC Committees including the Executive Committee, in order to keep general membership informed and involved in PIC decision- making. Minutes of PIC general membership meetings will be disseminated to members and/or posted on the PIC website.

Information dissemination will also include all funding information, agency reporting, HMIS-related information, information associated with the annual application, grant opportunities and related information. A list of all agencies receiving funds via the Homeless Program Office or the CoC (HUD funding) for homeless services and grant amounts will be provided when grants area announced.

2. HMIS Data Collection and Performance Reporting for HUD Homeless Assistance and PIC-Directed Funding

PIC will work collaboratively with the HMIS administrator/contractor and each member agency to ensure that mandated data collection and performance reporting of HUD-funded homeless assistance projects are held to the highest standard to ensure that the CoC remains competitive for new and on-going HUD funding opportunities.

Reports will be produced quarterly, semi-annually and annually on HMIS related data as needed, including but not be limited to, HMIS data completeness of key data elements, housing and service outcomes, mainstream program outcomes, timeliness of intakes and discharges, general data accuracy, and program utilization data trends.

3. Provide Reports to Members on Agencies Performance (fiscal and program reports)



PARTNERS IN CARE – Oahu Continuum of Care O’ahu’s Coalition of Homeless Providers

PIC will provide quarterly reports on membership attendance (general meeting and committees) and participation at key annual events including homeless awareness week and the point-in-time counts, in addition to participation in legislative testimony with respect to PIC-supported bills.

4. Maximize HUD Funding

Each agency that received HUD funding will submit a quarterly report on program performance as it relates to expenditures and people served. In the event an agency is not able to utilize HUD funding that is facilitated through the City and County (example: Shelter Plus Care programs) in the current fiscal year, the PIC Executive Committee will meet with the agency to discuss strategies to expend funding and serve more homeless individuals and families. These strategies will be specific and measurable. If said intervention does not work after a 30-day period, the PIC Executive Committee can then elect to shift that funding to another agency so that it may serve more homeless individuals and families. This will ensure that the CoC is maximizing funding and therefore not jeopardizing the amount of funding allocated the next year.

The amount of funding shifted will be determined by time left on grant, performance on grant thus far, and expected performance for the remaining grant. The amount will be a collective decision with the final determination made by the PIC Executive Committee. If there is/are member(s) on the PIC Executive Committee who have a direct relationship with an agency whose funding may be shifted or whose agency may receive additional funding, those members will be excluded from the decision-making process.

5. Support Agency/Service Provider

The PIC Chairperson and the Executive Committee will work with, and support Agencies to ensure the performance expectation implementation is well planned, and to address any concerns identified throughout the course of the year. In particular, the PIC Executive Committee will regularly review program performance, and a member of the PIC Executive Committee, such as the Chairperson, will discuss any concerns with the Agency representative to mitigate barriers to successful program performance, ensure that the Agency can meet fiscal and program performance, and if necessary, set an alternative method to achieve success.

ALL PROVIDERS AGREE TO:

1. Designate at least one staff member who will attend at least 75% of all general membership meetings.
2. Serve on at least one committee and actively participate in that committee which is evidenced by 75% attendance of meetings. Additionally, participation in at least 3 activities throughout the year outside of the membership and committee meetings shall be required (Examples include the point in time count, participating in homeless awareness week, giving testimony at legislature sessions, participating in the retreat, assisting with the annual application writing, and other like activities.)
3. Pay membership fee annually unless otherwise waived.
4. Inform their client population of persons and families experiencing homelessness about PIC activities and events to foster increased participation from the service population. Ensure that



PARTNERS IN CARE – Oahu Continuum of Care O'ahu's Coalition of Homeless Providers

agency staff is aware of PIC activities and involved in participation.

5. Attend annual PIC retreat and provide input during the strategic planning process for PIC (if applicable).
6. Perform any other duties as outlined by the most current PIC Governance Charter.

PROVIDERS THAT RECEIVE HUD FUNDING ALSO AGREE TO (in addition to the list above):

1. Agree that if they do not sign the Agreement, they will not be considered for any funding via the CoC for HUD funding
2. Submit required quarterly expenditures reports to PIC executive team 30 days after the end of each quarter to facilitate rapid review by general membership and the PIC Executive Committee.
3. Ensure attendance in general membership meeting is person of authority that can represent and make decision on behalf of the agency.
4. Accept any CoC recommendations that CoC awarded homeless services funds be shifted to other agencies or de-prioritized in annual renewal applications when it has been determined that significant portions of past funding has not been expended to meet grant requirements.
 - a. This is a collaborative decision and will be done only after significant review.
 - b. An action plan for the agency to perform will be the first step before shifting funding.
 - c. If agency is unable to meet agreed goals, then a determination will be made on how much funding should be shifted so more homeless can be served and the CoC keeps its funding.
 - d. The PIC Executive Committee will ultimately decide on amount of funding shifted.
5. Ensure their agency is entering and completing HMIS intake, service utilization and discharge data in a timely and accurate manner as required by the CoC for the HMIS to contain the most accurate data possible to guide service planning for persons and families experiencing homelessness.

2022 O'ahu CoC Community Membership Application

A community member is a non-voting member who is encouraged to participate in ending homelessness by attending 2 O'ahu Continuum of Care meetings per year.

* Required

Organization / Agency / Individual Information

1. Organization / Agency / Individual Name *

2. Website *

3. Name of Main Representative *

4. Main Representative's Title *

5. Organization / Agency / Individual Address *

6. Phone Number *

7. Email *

8. Fax Number

Alternate or Additional Representative

9. Name

10. Organization / Agency / Individual Address

11. Phone Number (include area code)

12. Email

13. Fax Number

14. We would like to receive the following information from Partners In Care:

- All notices, invitation, & information
- Advocacy Committee Updates / Emails
- Point in Time Count Information
- Invitation to annual conference & events
- Make a donation to PIC: <https://www.partnersincareoahu.org/contribute>

15. Are you willing to serve on a Committee?

For more information on the committee's roles: <https://www.partnersincareoahu.org/committees>

- Not Applicable
- Advocacy
- Awareness
- CES Oversight
- Communications
- Data
- Organizational Development
- Planning Committee



PARTNERS IN CARE – Oahu Continuum of Care O‘ahu’s Coalition of Homeless Providers

2022 Voting Membership Application Agreement

O ‘AHU CONTINUUM OF CARE (CoC) CODE OF CONDUCT AND CONFLICT OF INTEREST POLICY (from the Partners in Care Governance Charter Revised 06/20/17)

SECTION 13: PIC Code of Conduct and Conflict of Interest

All participants, employees, PIC members, Committee members, and Officers must agree to abide by the PIC Code of Conduct and Conflict of Interest policy. It is the responsibility of all PIC members, not just the committee chair or facilitator, to ensure a safe and inclusive environment for all.

Code of Conduct

All participants, PIC members, Committee members and Officers are expected to treat each other in a professional business manner and with respect and dignity. All participants, PIC members, Committee members and Officers are entitled to participate in PIC meetings, activities and discussions in an environment that is free of harassment, bullying and discrimination. The following behavior will not be tolerated in any form, including but not limited to: unwelcomed remarks, gestures or physical contact; the display, distribution or circulation of derogatory, discriminatory or sexually explicit materials; offensive, derogatory, or discriminatory comments or jokes; verbal abuse; physical abuse; or threats of harm.

Violations of the Code of Conduct Policy

If any participants, employees, PIC members, Committee members or Officers have reasonable cause to believe a participant or member has violated the Code of Conduct, they shall inform the Vice Chair in writing, who shall inform the participant or member of the complaint and afford the participant or member an opportunity to respond to the complaint. After hearing the participant's or member's response, the Vice Chair shall inform the Board of Directors of the complaint and response, and the Board of Directors shall determine if the participant or member violated the Code of Conduct and shall take appropriate corrective action.

Determining Whether a Violation of the Code of Conduct Occurred

After hearing a disclosure of the complaint, response and review of all material facts, the Board of Directors will determine if a violation of the Code of Conduct occurred.

Addressing a Violation of the Code of Conduct

After exercising due diligence in determining whether a violation of the Code of Conduct occurred, the Board of Directors will report its findings to the appropriate persons, committee or to PIC General Membership. If a violation has been determined to have occurred, the Board of Directors shall determine the appropriate corrective action including but not limited to termination of PIC membership or reporting to the participant's agency.

Conflict of Interest

A conflict of interest occurs when a participant, employee, PIC member, PIC Committee member, and/or PIC Executive Team member takes an action which results, or has the appearance of resulting in personal, organizational, or professional gain. No participant, employee, member of PIC or its Committees shall knowingly take action to influence the PIC in



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such a way as to confer financial benefit on themselves, family members, spouse or partner, or organization in which the participant, employee, PIC member, PIC Committee member, and/or PIC Executive Team member, family members, spouse or partner serves in an official capacity. Official capacity shall include service as an employee, owner, stockholder, director, board member, consultant, or officer who represents any such entity or organization which seeks to receive funding through the PIC process. Official capacity shall not include service solely as a volunteer (who does not serve as a board member or consultant) or recipient of services.

Duty to Disclose

All participants, employees, PIC members, PIC Committee members, and PIC Executive Team members shall indicate relationships that may present potential conflicts on their annual membership application or an interim basis as the conflict arises to the Vice Chair. Any conflict of interest that is disclosed shall be recorded in the meeting minutes.

All participants, employees, PIC members, PIC Committee members, and PIC Executive Team members shall also verbally disclose potential conflicts of interest prior to participating in discussions that may result in decisions that may confer financial benefit on themselves, family members, spouse or partner, or organization in which the participant, employee, PIC member, PIC Committee member, and/or PIC Executive Team member, family members, spouse or partner serves in any official capacity.

Recusal

All participants, employees, PIC members, PIC Committee members, and PIC Executive Team members, shall recuse themselves, stating reason, from voting on issues that would directly and/or disproportionately affect their agencies. Individuals with a conflict of interest must disclose their conflict of interest prior to any discussion but may participate by stating their position on a particular issue; however, they must remove themselves from the room during further discussion and voting on the issue. The recusal will be noted in the minutes. This applies to all discussions in relation to all CoC funding allocations and prioritization.

Violations of the Conflict of Interest Policy

If any person has reasonable cause to believe an individual has failed to disclose actual or possible conflicts of interest, they shall inform the Vice Chair in writing, who shall inform the individual with potential conflict of the basis for such belief, and afford the individual an opportunity to explain the alleged failure to disclose. After hearing the individual's response, the Vice Chair shall inform the Board of Directors of the complaint and response, and the Board of Directors shall determine if the individual failed to disclose an actual or possible conflict, and shall take appropriate corrective action such as, but not limited to, terminating the member's PIC or PIC Committee membership.

Determining Whether Conflict Exists

After hearing a disclosure of potential conflict of interest and reviewing all material facts, the Board of Directors will determine if a conflict exists without the participation of the individual with the potential conflict of interest.

Addressing Conflict of Interest



PARTNERS IN CARE – Oahu Continuum of Care O’ahu’s Coalition of Homeless Providers

After exercising due diligence in determining whether a conflict exists, the Board of Directors will report its findings to the appropriate persons, committee or to PIC General Membership. If a conflict has been determined to exist, the individual involved will not participate in any decision-making. The Board of Directors shall determine whether or not to investigate alternatives that would not involve a conflict of interest.

Acceptance of Gifts

In the discharge of duties as a member of Partners In Care, PIC Committee member, Executive Team member, or employee, one shall not accept or solicit any personal gift in excess of \$25, or favor where the receipt would either compromise impartial performance or would be viewed by the public as compromising impartial performance.

Fraud Intolerance

Fraudulent acts by participants, employees, PIC members, PIC Committee members or Executive Team members will not be tolerated and may result in termination from PIC or PIC Committee. A PIC member, PIC Committee member, employee, or Executive Team member who has reason to believe that there may have been an instance of fraud, improper action or other illegal act in connection with a PIC program, function or activity shall report it immediately to the Vice Chair. Reported instances shall be investigated in a timely manner and if an investigation confirms fraud has occurred, appropriate corrective action will be taken.

Fraud refers to but is not limited to: intentionally entering false data into the HMIS or other related systems; any dishonest or fraudulent act; forgery or alteration of any official document; the misappropriation of funds, supplies or PIC materials; improper handling or reporting of money or financial transactions; profiting by self or others as a result of inside knowledge; destruction or intentional disappearance of records or equipment; accepting or seeking anything of value from vendors or persons providing services or materials to the PIC for personal benefit. "

This content is from the eCFR and is authoritative but unofficial.

Title 24 - Housing and Urban Development
Subtitle B - Regulations Relating to Housing and Urban Development
Chapter V - Office of Assistant Secretary for Community Planning and Development,
Department of Housing and Urban Development
Subchapter C - Community Facilities

Part 578 Continuum of Care Program

Subpart A General Provisions

§ 578.1 Purpose and scope.

§ 578.3 Definitions.

Subpart B Establishing and Operating a Continuum of Care

§ 578.5 Establishing the Continuum of Care.

§ 578.7 Responsibilities of the Continuum of Care.

§ 578.9 Preparing an application for funds.

§ 578.11 Unified Funding Agency.

§ 578.13 Remedial action.

Subpart C Application and Grant Award Process

§ 578.15 Eligible applicants.

§ 578.17 Overview of application and grant award process.

§ 578.19 Application process.

§ 578.21 Awarding funds.

§ 578.23 Executing grant agreements.

§ 578.25 Site control.

§ 578.27 Consolidated plan.

§ 578.29 Subsidy layering.

§ 578.31 Environmental review.

§ 578.33 Renewals.

§ 578.35 Appeal.

Subpart D Program Components and Eligible Costs

§ 578.37 Program components and uses of assistance.

§ 578.39 Continuum of Care planning activities.

§ 578.41 Unified Funding Agency costs.

§ 578.43 Acquisition.

§ 578.45 Rehabilitation.

§ 578.47 New construction.

§ 578.49 Leasing.

§ 578.51 Rental assistance.

- § 578.53 Supportive services.
- § 578.55 Operating costs.
- § 578.57 Homeless Management Information System.
- § 578.59 Project administrative costs.
- § 578.61 Relocation costs.
- § 578.63 Indirect costs.

Subpart E High-Performing Communities

- § 578.65 Standards.
- § 578.67 Publication of application.
- § 578.69 Cooperation among entities.
- § 578.71 HPC-eligible activities.

Subpart F Program Requirements

- § 578.73 Matching requirements.
- § 578.75 General operations.
- § 578.77 Calculating occupancy charges and rent.
- § 578.79 Limitation on transitional housing.
- § 578.81 Term of commitment, repayment of grants, and prevention of undue benefits.
- § 578.83 Displacement, relocation, and acquisition.
- § 578.85 Timeliness standards.
- § 578.87 Limitation on use of funds.
- § 578.89 Limitation on use of grant funds to serve persons defined as homeless under other federal laws.
- § 578.91 Termination of assistance to program participants.
- § 578.93 Fair Housing and Equal Opportunity.
- § 578.95 Conflicts of interest.
- § 578.97 Program income.
- § 578.99 Applicability of other Federal requirements.

Subpart G Grant Administration

- § 578.101 Technical assistance.
- § 578.103 Recordkeeping requirements.
- § 578.105 Grant and project changes.
- § 578.107 Sanctions.
- § 578.109 Closeout.

PART 578 - CONTINUUM OF CARE PROGRAM

Authority: 12 U.S.C. 1701x, 1701 x-1; 42 U.S.C. 11381 et seq., 42 U.S.C. 3535(d).

Source: 77 FR 45442, July 31, 2012, unless otherwise noted.

Subpart A - General Provisions

§ 578.1 Purpose and scope.

- (a) The Continuum of Care program is authorized by subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381-11389).
- (b) The program is designed to:
 - (1) Promote communitywide commitment to the goal of ending homelessness;
 - (2) Provide funding for efforts by nonprofit providers, States, and local governments to quickly rehouse homeless individuals (including unaccompanied youth) and families, while minimizing the trauma and dislocation caused to homeless individuals, families, and communities by homelessness;
 - (3) Promote access to and effective utilization of mainstream programs by homeless individuals and families; and
 - (4) Optimize self-sufficiency among individuals and families experiencing homelessness.

§ 578.3 Definitions.

As used in this part:

Act means the McKinney-Vento Homeless Assistance Act as amended (42 U.S.C. 11371 *et seq.*).

Annual renewal amount means the amount that a grant can be awarded on an annual basis when renewed. It includes funds only for those eligible activities (operating, supportive services, leasing, rental assistance, HMIS, and administration) that were funded in the original grant (or the original grant as amended), less the unrenovable activities (acquisition, new construction, rehabilitation, and any administrative costs related to these activities).

Applicant means an eligible applicant that has been designated by the Continuum of Care to apply for assistance under this part on behalf of that Continuum.

At risk of homelessness.

- (1) An individual or family who:
 - (i) Has an annual income below 30 percent of median family income for the area, as determined by HUD;
 - (ii) Does not have sufficient resources or support networks, *e.g.*, family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the “Homeless” definition in this section; and
 - (iii) Meets one of the following conditions:
 - (A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
 - (B) Is living in the home of another because of economic hardship;
 - (C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days of the date of application for assistance;

- (D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;
 - (E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons, or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;
 - (F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
 - (G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan;
- (2) A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or
- (3) A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

Centralized or coordinated assessment system means a centralized or coordinated process designed to coordinate program participant intake assessment and provision of referrals. A centralized or coordinated assessment system covers the geographic area, is easily accessed by individuals and families seeking housing or services, is well advertised, and includes a comprehensive and standardized assessment tool.

Chronically homeless means:

- (1) A "homeless individual with a disability," as defined in section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who:
 - (i) Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and
 - (ii) Has been homeless and living as described in paragraph (1)(i) of this definition continuously for at least 12 months or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described in paragraph (1)(i). Stays in institutional care facilities for fewer than 90 days will not constitute as a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility;
- (2) An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or

- (3) A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.

Collaborative applicant means the eligible applicant that has been designated by the Continuum of Care to apply for a grant for Continuum of Care planning funds under this part on behalf of the Continuum.

Consolidated plan means the HUD-approved plan developed in accordance with 24 CFR 91.

Continuum of Care and Continuum means the group organized to carry out the responsibilities required under this part and that is composed of representatives of organizations, including nonprofit homeless providers, victim service providers, faith-based organizations, governments, businesses, advocates, public housing agencies, school districts, social service providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement, organizations that serve homeless and formerly homeless veterans, and homeless and formerly homeless persons to the extent these groups are represented within the geographic area and are available to participate.

Developmental disability means, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002):

- (1) A severe, chronic disability of an individual that -
 - (i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - (ii) Is manifested before the individual attains age 22;
 - (iii) Is likely to continue indefinitely;
 - (iv) Results in substantial functional limitations in three or more of the following areas of major life activity:
 - (A) Self-care;
 - (B) Receptive and expressive language;
 - (C) Learning;
 - (D) Mobility;
 - (E) Self-direction;
 - (F) Capacity for independent living;
 - (G) Economic self-sufficiency.
 - (v) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.
- (2) An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting three or more of the criteria described in paragraphs (1)(i) through (v) of the definition of “developmental disability” in this section if the individual, without services and supports, has a high probability of meeting these criteria later in life.

Eligible applicant means a private nonprofit organization, State, local government, or instrumentality of State and local government.

Emergency shelter is defined in 24 CFR part 576.

Emergency Solutions Grants (ESG) means the grants provided under 24 CFR part 576.

Fair Market Rent (FMR) means the Fair Market Rents published in the FEDERAL REGISTER annually by HUD.

High-performing community (HPC) means a Continuum of Care that meets the standards in subpart E of this part and has been designated as a high-performing community by HUD.

Homeless means:

- (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
 - (i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
 - (ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or
 - (iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
- (2) An individual or family who will imminently lose their primary nighttime residence, provided that:
 - (i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
 - (ii) No subsequent residence has been identified; and
 - (iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing;
- (3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
 - (i) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
 - (ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
 - (iii) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and

- (iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or
- (4) Any individual or family who:
- (i) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;
 - (ii) Has no other residence; and
 - (iii) Lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing.

Homeless Management Information System (HMIS) means the information system designated by the Continuum of Care to comply with the HMIS requirements prescribed by HUD.

HMIS Lead means the entity designated by the Continuum of Care in accordance with this part to operate the Continuum's HMIS on its behalf.

Permanent housing means community-based housing without a designated length of stay, and includes both permanent supportive housing and rapid rehousing. To be permanent housing, the program participant must be the tenant on a lease for a term of at least one year, which is renewable for terms that are a minimum of one month long, and is terminable only for cause.

Permanent supportive housing means permanent housing in which supportive services are provided to assist homeless persons with a disability to live independently.

Point-in-time count means a count of sheltered and unsheltered homeless persons carried out on one night in the last 10 calendar days of January or at such other time as required by HUD.

Private nonprofit organization means an organization:

- (1) No part of the net earnings of which inure to the benefit of any member, founder, contributor, or individual;
- (2) That has a voluntary board;
- (3) That has a functioning accounting system that is operated in accordance with generally accepted accounting principles, or has designated a fiscal agent that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles; and
- (4) That practices nondiscrimination in the provision of assistance.

A private nonprofit organization does not include governmental organizations, such as public housing agencies.

Program participant means an individual (including an unaccompanied youth) or family who is assisted with Continuum of Care program funds.

Project means a group of eligible activities, such as HMIS costs, identified as a project in an application to HUD for Continuum of Care funds and includes a structure (or structures) that is (are) acquired, rehabilitated, constructed, or leased with assistance provided under this part or with respect to which HUD provides rental assistance or annual payments for operating costs, or supportive services under this subtitle.

Recipient means an applicant that signs a grant agreement with HUD.

Safe haven means, for the purpose of defining chronically homeless, supportive housing that meets the following:

- (1) Serves hard to reach homeless persons with severe mental illness who came from the streets and have been unwilling or unable to participate in supportive services;
- (2) Provides 24-hour residence for eligible persons for an unspecified period;
- (3) Has an overnight capacity limited to 25 or fewer persons; and
- (4) Provides low-demand services and referrals for the residents.

State means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Marianas, and the Virgin Islands.

Subrecipient means a private nonprofit organization, State, local government, or instrumentality of State or local government that receives a subgrant from the recipient to carry out a project.

Transitional housing means housing, where all program participants have signed a lease or occupancy agreement, the purpose of which is to facilitate the movement of homeless individuals and families into permanent housing within 24 months or such longer period as HUD determines necessary. The program participant must have a lease or occupancy agreement for a term of at least one month that ends in 24 months and cannot be extended.

Unified Funding Agency (UFA) means an eligible applicant selected by the Continuum of Care to apply for a grant for the entire Continuum, which has the capacity to carry out the duties in § 578.11(b), which is approved by HUD and to which HUD awards a grant.

Victim service provider means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. This term includes rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs.

Subpart B - Establishing and Operating a Continuum of Care

§ 578.5 Establishing the Continuum of Care.

- (a) **The Continuum of Care.** Representatives from relevant organizations within a geographic area shall establish a Continuum of Care for the geographic area to carry out the duties of this part. Relevant organizations include nonprofit homeless assistance providers, victim service providers, faith-based organizations, governments, businesses, advocates, public housing agencies, school districts, social service providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement, and organizations that serve veterans and homeless and formerly homeless individuals.
- (b) **The board.** The Continuum of Care must establish a board to act on behalf of the Continuum using the process established as a requirement by § 578.7(a)(3) and must comply with the conflict-of-interest requirements at § 578.95(b). The board must:

- (1) Be representative of the relevant organizations and of projects serving homeless subpopulations;
and
 - (2) Include at least one homeless or formerly homeless individual.
- (c) **Transition.** Continuums of Care shall have 2 years after August 30, 2012 to comply with the requirements of paragraph (b) of this section.

§ 578.7 Responsibilities of the Continuum of Care.

- (a) **Operate the Continuum of Care.** The Continuum of Care must:
- (1) Hold meetings of the full membership, with published agendas, at least semi-annually;
 - (2) Make an invitation for new members to join publicly available within the geographic at least annually;
 - (3) Adopt and follow a written process to select a board to act on behalf of the Continuum of Care. The process must be reviewed, updated, and approved by the Continuum at least once every 5 years;
 - (4) Appoint additional committees, subcommittees, or workgroups;
 - (5) In consultation with the collaborative applicant and the HMIS Lead, develop, follow, and update annually a governance charter, which will include all procedures and policies needed to comply with subpart B of this part and with HMIS requirements as prescribed by HUD; and a code of conduct and recusal process for the board, its chair(s), and any person acting on behalf of the board;
 - (6) Consult with recipients and subrecipients to establish performance targets appropriate for population and program type, monitor recipient and subrecipient performance, evaluate outcomes, and take action against poor performers;
 - (7) Evaluate outcomes of projects funded under the Emergency Solutions Grants program and the Continuum of Care program, and report to HUD;
 - (8) In consultation with recipients of Emergency Solutions Grants program funds within the geographic area, establish and operate either a centralized or coordinated assessment system that provides an initial, comprehensive assessment of the needs of individuals and families for housing and services. The Continuum must develop a specific policy to guide the operation of the centralized or coordinated assessment system on how its system will address the needs of individuals and families who are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, or stalking, but who are seeking shelter or services from nonvictim service providers. This system must comply with any requirements established by HUD by Notice.
 - (9) In consultation with recipients of Emergency Solutions Grants program funds within the geographic area, establish and consistently follow written standards for providing Continuum of Care assistance. At a minimum, these written standards must include:
 - (i) Policies and procedures for evaluating individuals' and families' eligibility for assistance under this part;
 - (ii) Policies and procedures for determining and prioritizing which eligible individuals and families will receive transitional housing assistance (these policies must include the emergency transfer priority required under § 578.99(j)(8));
 - (iii) Policies and procedures for determining and prioritizing which eligible individuals and families will receive rapid rehousing assistance (these policies must include the emergency transfer priority required under § 578.99(j)(8));

- (iv) Standards for determining what percentage or amount of rent each program participant must pay while receiving rapid rehousing assistance;
- (v) Policies and procedures for determining and prioritizing which eligible individuals and families will receive permanent supportive housing assistance (these policies must include the emergency transfer priority required under § 578.99(j)(8)); and
- (vi) Where the Continuum is designated a high-performing community, as described in subpart G of this part, policies and procedures set forth in 24 CFR 576.400(e)(3)(vi), (e)(3)(vii), (e)(3)(viii), and (e)(3)(ix).

(b) **Designating and operating an HMIS.** The Continuum of Care must:

- (1) Designate a single Homeless Management Information System (HMIS) for the geographic area;
- (2) Designate an eligible applicant to manage the Continuum's HMIS, which will be known as the HMIS Lead;
- (3) Review, revise, and approve a privacy plan, security plan, and data quality plan for the HMIS.
- (4) Ensure consistent participation of recipients and subrecipients in the HMIS; and
- (5) Ensure the HMIS is administered in compliance with requirements prescribed by HUD.

(c) **Continuum of Care planning.** The Continuum must develop a plan that includes:

- (1) Coordinating the implementation of a housing and service system within its geographic area that meets the needs of the homeless individuals (including unaccompanied youth) and families. At a minimum, such system encompasses the following:
 - (i) Outreach, engagement, and assessment;
 - (ii) Shelter, housing, and supportive services;
 - (iii) Prevention strategies.
- (2) Planning for and conducting, at least biennially, a point-in-time count of homeless persons within the geographic area that meets the following requirements:
 - (i) Homeless persons who are living in a place not designed or ordinarily used as a regular sleeping accommodation for humans must be counted as unsheltered homeless persons.
 - (ii) Persons living in emergency shelters and transitional housing projects must be counted as sheltered homeless persons.
 - (iii) Other requirements established by HUD by Notice.
- (3) Conducting an annual gaps analysis of the homeless needs and services available within the geographic area;
- (4) Providing information required to complete the Consolidated Plan(s) within the Continuum's geographic area;
- (5) Consulting with State and local government Emergency Solutions Grants program recipients within the Continuum's geographic area on the plan for allocating Emergency Solutions Grants program funds and reporting on and evaluating the performance of Emergency Solutions Grants program recipients and subrecipients.

- (d) **VAWA emergency transfer plan.** The Continuum of Care must develop the emergency transfer plan for the Continuum of Care that meets the requirements under § 578.99(j)(8).

[77 FR 45442, July 31, 2012, as amended at 81 FR 80809, Nov. 16, 2016]

§ 578.9 Preparing an application for funds.

- (a) The Continuum must:
 - (1) Design, operate, and follow a collaborative process for the development of applications and approve the submission of applications in response to a NOFA published by HUD under § 578.19 of this subpart;
 - (2) Establish priorities for funding projects in the geographic area;
 - (3) Determine if one application for funding will be submitted for all projects within the geographic area or if more than one application will be submitted for the projects within the geographic area;
 - (i) If more than one application will be submitted, designate an eligible applicant to be the collaborative applicant that will collect and combine the required application information from all applicants and for all projects within the geographic area that the Continuum has selected funding. The collaborative applicant will also apply for Continuum of Care planning activities. If the Continuum is an eligible applicant, it may designate itself;
 - (ii) If only one application will be submitted, that applicant will be the collaborative applicant and will collect and combine the required application information from all projects within the geographic area that the Continuum has selected for funding and apply for Continuum of Care planning activities;
- (b) The Continuum retains all of its responsibilities, even if it designates one or more eligible applicants other than itself to apply for funds on behalf of the Continuum. This includes approving the Continuum of Care application.

§ 578.11 Unified Funding Agency.

- (a) **becoming a Unified Funding Agency.** To become designated as the Unified Funding Agency (UFA) for a Continuum, a collaborative applicant must be selected by the Continuum to apply to HUD to be designated as the UFA for the Continuum.
- (b) **Criteria for designating a UFA.** HUD will consider these criteria when deciding whether to designate a collaborative applicant a UFA:
 - (1) The Continuum of Care it represents meets the requirements in § 578.7;
 - (2) The collaborative applicant has financial management systems that meet the standards set forth in 2 CFR 200.302;
 - (3) The collaborative applicant demonstrates the ability to monitor subrecipients; and
 - (4) Such other criteria as HUD may establish by NOFA.
- (c) **Requirements.** HUD-designated UFAs shall:
 - (1) Apply to HUD for funding for all of the projects within the geographic area and enter into a grant agreement with HUD for the entire geographic area.

- (2) Enter into legally binding agreements with subrecipients, and receive and distribute funds to subrecipients for all projects within the geographic area.
- (3) Require subrecipients to establish fiscal control and accounting procedures as necessary to assure the proper disbursement of and accounting for federal funds in accordance with the requirements of 24 CFR part 200, subpart D.
- (4) Obtain approval of any proposed grant agreement amendments by the Continuum of Care before submitting a request for an amendment to HUD.

[77 FR 45442, July 31, 2012, as amended at 80 FR 75939, Dec. 7, 2015]

§ 578.13 Remedial action.

- (a) If HUD finds that the Continuum of Care for a geographic area does not meet the requirements of the Act or its implementing regulations, or that there is no Continuum for a geographic area, HUD may take remedial action to ensure fair distribution of grant funds within the geographic area. Such measures may include:
 - (1) Designating a replacement Continuum of Care for the geographic area;
 - (2) Designating a replacement collaborative applicant for the Continuum's geographic area; and
 - (3) Accepting applications from other eligible applicants within the Continuum's geographic area.
- (b) HUD must provide a 30-day prior written notice to the Continuum and its collaborative applicant and give them an opportunity to respond.

Subpart C - Application and Grant Award Process

§ 578.15 Eligible applicants.

- (a) **Who may apply.** Nonprofit organizations, States, local governments, and instrumentalities of State or local governments are eligible to apply for grants.
- (b) **Designation by the Continuum of Care.** Eligible applicant(s) must have been designated by the Continuum of Care to submit an application for grant funds under this part. The designation must state whether the Continuum is designating more than one applicant to apply for funds and, if it is, which applicant is being designated as the collaborative applicant. If the Continuum is designating only one applicant to apply for funds, the Continuum must designate that applicant to be the collaborative applicant.
- (c) **Exclusion.** For-profit entities are not eligible to apply for grants or to be subrecipients of grant funds.

§ 578.17 Overview of application and grant award process.

- (a) **Formula.**
 - (1) After enactment of the annual appropriations act for each fiscal year, and issuance of the NOFA, HUD will publish, on its Web site, the Preliminary Pro Rata Need (PPRN) assigned to metropolitan cities, urban counties, and all other counties.
 - (2) HUD will apply the formula used to determine PPRN established in paragraph (a)(3) of this section, to the amount of funds being made available under the NOFA. That amount is calculated by:

- (i) Determining the total amount for the Continuum of Care competition in accordance with section 413 of the Act or as otherwise directed by the annual appropriations act;
 - (ii) From the amount in paragraph (a)(2)(i) of this section, deducting the amount published in the NOFA as being set aside to provide a bonus to geographic areas for activities that have proven to be effective in reducing homelessness generally or for specific subpopulations listed in the NOFA or achieving homeless prevention and independent living goals established in the NOFA and to meet policy priorities set in the NOFA; and
 - (iii) Deducting the amount of funding necessary for Continuum of Care planning activities and UFA costs.
- (3) PPRN is calculated on the amount determined under paragraph (a)(2) of this section by using the following formula:
- (i) Two percent will be allocated among the four insular areas (American Samoa, Guam, the Commonwealth of the Northern Marianas, and the Virgin Islands) on the basis of the ratio of the population of each insular area to the population of all insular areas.
 - (ii) Seventy-five percent of the remaining amount will be allocated, using the Community Development Block Grant (CDBG) formula, to metropolitan cities and urban counties that have been funded under either the Emergency Shelter Grants or Emergency Solutions Grants programs in any one year since 2004.
 - (iii) The amount remaining after the allocation under paragraphs (a)(1) and (2) of this section will be allocated, using the CDBG formula, to metropolitan cities and urban counties that have not been funded under the Emergency Solutions Grants program in any year since 2004 and all other counties in the United States and Puerto Rico.
- (4) If the calculation in paragraph (a)(2) of this section results in an amount less than the amount required to renew all projects eligible for renewal in that year for at least one year, after making adjustments proportional to increases in fair market rents for the geographic area for leasing, operating, and rental assistance for permanent housing, HUD will reduce, proportionately, the total amount required to renew all projects eligible for renewal in that year for at least one year, for each Continuum of Care. HUD will publish, via the NOFA, the total dollar amount that every Continuum will be required to deduct from renewal projects Continuum-wide.

(b) *Calculating a Continuum of Care's maximum award amount.*

- (1) **Establish the PPRN amount.** First, HUD will total the PPRN amounts for each metropolitan city, urban county, other county, and insular area claimed by the Continuum as part of its geographic area, excluding any counties applying for or receiving funding from the Rural Housing Stability Assistance program under 24 CFR part 579.
- (2) **Establishing renewal demand.** Next, HUD will determine the renewal demand within the Continuum's geographic area. Renewal demand is the sum of the annual renewal amounts of all projects within the Continuum eligible to apply for renewal in that fiscal year's competition, before any adjustments to rental assistance, leasing, and operating line items based on FMR changes.
- (3) **Establishing FPRN.** The higher of PPRN or renewal demand for the Continuum of Care is the FPRN, which is the base for the maximum award amount for the Continuum.

- (4) **Establishing the maximum award amount.** The maximum award amount for the Continuum is the FPRN amount plus any additional eligible amounts for Continuum planning; UFA costs; adjustments to leasing, operating and rental assistance line items based on changes to FMR; and available bonuses.

§ 578.19 Application process.

- (a) **Notice of Funding Availability.** After enactment of the annual appropriations act for the fiscal year, HUD will issue a NOFA in accordance with the requirements of 24 CFR part 4.
- (b) **Applications.** All applications to HUD, including applications for grant funds and requests for designation as a UFA or HPC, must be submitted at such time and in such manner as HUD may require, and contain such information as HUD determines necessary. At a minimum, an application for grant funds must contain a list of the projects for which it is applying for funds; a description of the projects; a list of the projects that will be carried out by subrecipients and the names of the subrecipients; a description of the subpopulations of homeless or at risk of homelessness to be served by projects; the number of units to be provided and/or the number of persons to be served by each project; a budget request by project; and reasonable assurances that the applicant, or the subrecipient, will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance.

§ 578.21 Awarding funds.

- (a) **Selection.** HUD will review applications in accordance with the guidelines and procedures provided in the NOFA and will award funds to recipients through a national competition based on selection criteria as defined in section 427 of the Act.
- (b) **Announcement of awards.** HUD will announce awards and notify selected applicants of any conditions imposed on awards. Conditions must be satisfied before HUD will execute a grant agreement with the applicant.
- (c) **Satisfying conditions.** HUD will withdraw an award if the applicant does not satisfy all conditions imposed on it. Correcting all issues and conditions attached to an award must be completed within the time frame established in the NOFA. Proof of site control, match, environmental review, and the documentation of financial feasibility must be completed within 12 months of the announcement of the award, or 24 months in the case of funds for acquisition, rehabilitation, or new construction. The 12-month deadline may be extended by HUD for up to 12 additional months upon a showing of compelling reasons for delay due to factors beyond the control of the recipient or subrecipient.

§ 578.23 Executing grant agreements.

- (a) **Deadline.** No later than 45 days from the date when all conditions are satisfied, the recipient and HUD must execute the grant agreement.
- (b) **Grant agreements.**
 - (1) **Multiple applicants for one Continuum.** If a Continuum designates more than one applicant for the geographic area, HUD will enter into a grant agreement with each designated applicant for which an award is announced.

(2) **One applicant for a Continuum.** If a Continuum designates only one applicant for the geographic area, after awarding funds, HUD may enter into a grant agreement with that applicant for new awards, if any, and one grant agreement for renewals, Continuum of Care planning, and UFA costs, if any. These two grants will cover the entire geographic area. A default by the recipient under one of those grant agreements will also be a default under the other.

(3) **Unified Funding Agencies.** If a Continuum is a UFA that HUD has approved, then HUD will enter into one grant agreement with the UFA for new awards, if any, and one grant agreement for renewals, Continuum of Care planning and UFA costs, if any. These two grants will cover the entire geographic area. A default by the UFA under one of those grant agreements will also be a default under the other.

(c) **Required agreements.** Recipients will be required to sign a grant agreement in which the recipient agrees:

(1) To ensure the operation of the project(s) in accordance with the provisions of the McKinney-Veto Act and all requirements under 24 CFR part 578;

(2) To monitor and report the progress of the project(s) to the Continuum of Care and HUD;

(3) To ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;

(4) To require certification from all subrecipients that:

(i) Subrecipients will maintain the confidentiality of records pertaining to any individual or family that was provided family violence prevention or treatment services through the project;

(ii) The address or location of any family violence project assisted under this part will not be made public, except with written authorization of the person responsible for the operation of such project;

(iii) Subrecipients will establish policies and practices that are consistent with, and do not restrict, the exercise of rights provided by subtitle B of title VII of the Act and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness;

(iv) In the case of projects that provide housing or services to families, that subrecipients will designate a staff person to be responsible for ensuring that children being served in the program are enrolled in school and connected to appropriate services in the community, including early childhood programs such as Head Start, part C of the Individuals with Disabilities Education Act, and programs authorized under subtitle B of title VII of the Act;

(v) The subrecipient, its officers, and employees are not debarred or suspended from doing business with the Federal Government; and

(vi) Subrecipients will provide information, such as data and reports, as required by HUD; and

(5) To establish such fiscal control and accounting procedures as may be necessary to assure the proper disbursement of, and accounting for grant funds in order to ensure that all financial transactions are conducted, and records maintained in accordance with generally accepted accounting principles, if the recipient is a UFA;

(6) To monitor subrecipient match and report on match to HUD;

- (7) To take the educational needs of children into account when families are placed in housing and will, to the maximum extent practicable, place families with children as close as possible to their school of origin so as not to disrupt such children's education;
- (8) To monitor subrecipients at least annually;
- (9) To use the centralized or coordinated assessment system established by the Continuum of Care as set forth in § 578.7(a)(8). A victim service provider may choose not to use the Continuum of Care's centralized or coordinated assessment system, provided that victim service providers in the area use a centralized or coordinated assessment system that meets HUD's minimum requirements and the victim service provider uses that system instead;
- (10) To follow the written standards for providing Continuum of Care assistance developed by the Continuum of Care, including the minimum requirements set forth in § 578.7(a)(9);
- (11) Enter into subrecipient agreements requiring subrecipients to operate the project(s) in accordance with the provisions of this Act and all requirements under 24 CFR part 578; and
- (12) To comply with such other terms and conditions as HUD may establish by NOFA.

§ 578.25 Site control.

- (a) **In general.** When grant funds will be used for acquisition, rehabilitation, new construction, operating costs, or to provide supportive services, the recipient or subrecipient must demonstrate that it has site control within the time frame established in section § 578.21 before HUD will execute a grant agreement. This requirement does not apply to funds used for housing that will eventually be owned or controlled by the individuals or families served or for supportive services provided at sites not operated by the recipient or subrecipient.
- (b) **Evidence.** Acceptable evidence of site control is a deed or lease. If grant funds will be used for acquisition, acceptable evidence of site control will be a purchase agreement. The owner, lessee, and purchaser shown on these documents must be the selected applicant or intended subrecipient identified in the application for assistance.
- (c) **Tax credit projects.**
 - (1) Applicants that plan to use the low-income housing tax credit authorized under 26 U.S.C. 42 to finance a project must prove to HUD's satisfaction that the applicant or subrecipient identified in the application is in control of the limited partnership or limited liability corporation that has a deed or lease for the project site.
 - (i) To have control of the limited partnership, the applicant or subrecipient must be the general partner of the limited partnership or have a 51 percent controlling interest in that general partner.
 - (ii) To have control of the limited liability company, the applicant or subrecipient must be the sole managing member.
 - (2) If grant funds are to be used for acquisition, rehabilitation, or new construction, the recipient or subrecipient must maintain control of the partnership or corporation and must ensure that the project is operated in compliance with law and regulation for 15 years from the date of initial occupancy or initial service provision. The partnership or corporation must own the project site

throughout the 15-year period. If grant funds were not used for acquisition, rehabilitation, or new construction, then the recipient or subrecipient must maintain control for the term of the grant agreement and any renewals thereof.

§ 578.27 Consolidated plan.

- (a) **States or units of general local government.** An applicant that is a State or a unit of general local government must have a HUD-approved, complete or abbreviated, consolidated plan in accordance with 24 CFR part 91. The applicant must submit a certification that the application for funding is consistent with the HUD-approved consolidated plan(s) for the jurisdiction(s) in which the proposed project will be located. Funded applicants must certify in a grant agreement that they are following the HUD-approved consolidated plan.
- (b) **Other applicants.** Applicants that are not States or units of general local government must submit a certification by the jurisdiction(s) in which the proposed project will be located that the applicant's application for funding is consistent with the jurisdiction's HUD-approved consolidated plan. The certification must be made by the unit of general local government or the State, in accordance with the consistency certification provisions under 24 CFR part 91, subpart F. If the jurisdiction refuses to provide a certification of consistency, the applicant may appeal to HUD under § 578.35.
- (c) **Timing of consolidated plan certification submissions.** The required certification that the application for funding is consistent with the HUD-approved consolidated plan must be submitted by the funding application submission deadline announced in the NOFA.

§ 578.29 Subsidy layering.

HUD may provide assistance under this program only in accordance with HUD subsidy layering requirements in section 102 of the Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) and 24 CFR part 4, subpart A. An applicant must submit information in its application on other sources of governmental assistance that the applicant has received, or reasonably expects to receive, for a proposed project or activities. HUD's review of this information is intended to prevent excessive public assistance for proposed project or activities by combining (layering) assistance under this program with other governmental housing assistance from federal, State, or local agencies, including assistance such as tax concessions or tax credits.

§ 578.31 Environmental review.

- (a) Activities under this part are subject to environmental review by HUD under 24 CFR part 50. The recipient or subrecipient shall supply all available, relevant information necessary for HUD to perform, for each property, any environmental review required by 24 CFR part 50. The recipient or subrecipient must carry out mitigating measures required by HUD or select an alternate eligible property. HUD may eliminate from consideration any application that would require an Environmental Impact Statement.
- (b) The recipient or subrecipient, its project partners, and their contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project under this part, or commit or expend HUD or local funds for such eligible activities under this part, until HUD has performed an environmental review under 24 CFR part 50 and the recipient or subrecipient has received HUD approval of the property.

§ 578.33 Renewals.

- (a) ***In general.*** Awards made under this part and title IV of the Act, as in effect before August 30, 2012 (the Supportive Housing Program and the Shelter Plus Care program), may be renewed to continue ongoing leasing, operations, supportive services, rental assistance, HMIS, and administration beyond the initial funding period. To be considered for funding, recipients must submit a request in a form specified by HUD, must meet the requirements of this part, and must submit the request within the time frame established by HUD.
- (b) ***Length of renewal.*** HUD may award up to 3 years of funds for supportive services, leasing, HMIS, and operating costs. Renewals of tenant-based and sponsor-based rental assistance may be for up to one year of rental assistance. Renewals of project-based rental assistance may be for up to 15 years of rental assistance, subject to availability of annual appropriations.
- (c) ***Assistance available.***
 - (1) Assistance during each year of a renewal period may be for:
 - (i) Up to 100 percent of the amount for supportive services and HMIS costs in the final year of the prior funding period;
 - (ii) Up to 100 percent of the amount for leasing and operating in the final year of the prior funding period adjusted in proportion to changes in the FMR for the geographic area; and
 - (iii) For rental assistance, up to 100 percent of the result of multiplying the number and unit size(s) in the grant agreement by the number of months in the renewal grant term and the applicable FMR.
- (d) ***Review criteria.***
 - (1) Awards made under title IV of the Act, as in effect before August 30, 2012 are eligible for renewal in the Continuum of Care program even if the awardees would not be eligible for a new grant under the program, so long as they continue to serve the same population and the same number of persons or units in the same type of housing as identified in their most recently amended grant agreement signed before August 30, 2012. Grants will be renewed if HUD receives a certification from the Continuum that there is a demonstrated need for the project, and HUD finds that the project complied with program requirements applicable before August 30, 2012. For purposes of meeting the requirements of this part, a project will continue to be administered in accordance with 24 CFR 582.330, if the project received funding under the Shelter Plus Care program, or 24 CFR 583.325, if the project received funding under the Supportive Housing Program.
 - (2) ***Renewal of awards made after August 30, 2012.*** Review criteria for competitively awarded renewals made after August 30, 2012 will be described in the NOFA.
- (e) ***Unsuccessful projects.*** HUD may renew a project that was eligible for renewal in the competition and was part of an application that was not funded despite having been submitted on time, in the manner required by HUD, and containing the information required by HUD, upon a finding that the project meets the purposes of the Continuum of Care program. The renewal will not exceed more than one year and will be under such conditions as HUD deems appropriate.
- (f) ***Annual Performance Report condition.*** HUD may terminate the renewal of any grant and require the recipient to repay the renewal grant if:

- (1) The recipient fails to timely submit a HUD Annual Performance Report (APR) for the grant year immediately prior to renewal; or
- (2) The recipient submits an APR that HUD deems unacceptable or shows noncompliance with the requirements of the grant and this part.

§ 578.35 Appeal.

- (a) ***In general.*** Failure to follow the procedures or meet the deadlines established in this section will result in denial of the appeal.
- (b) ***Solo applicants.***
 - (1) ***Who may appeal.*** Nonprofits, States, and local governments, and instrumentalities of State or local governments that attempted to participate in the Continuum of Care planning process in the geographic area in which they operate, that believe they were denied the right to participate in a reasonable manner, and that submitted a solo application for funding by the application deadline established in the NOFA, may appeal the decision of the Continuum to HUD.
 - (2) ***Notice of intent to appeal.*** The solo applicant must submit a written notice of intent to appeal, with a copy to the Continuum, with their funding application.
 - (3) ***Deadline for submitting proof.*** No later than 30 days after the date that HUD announces the awards, the solo applicant shall submit in writing, with a copy to the Continuum, all relevant evidence supporting its claim, in such manner as HUD may require by Notice.
 - (4) ***Response from the Continuum of Care.*** The Continuum shall have 30 days from the date of its receipt of the solo applicant's evidence to respond to HUD in writing and in such manner as HUD may require, with a copy to the solo applicant.
 - (5) ***Decision.*** HUD will notify the solo applicant and the Continuum of its decision within 60 days of receipt of the Continuum's response.
 - (6) ***Funding.*** If HUD finds that the solo applicant was not permitted to participate in the Continuum of Care planning process in a reasonable manner, then HUD may award a grant to the solo applicant when funds next become available and may direct the Continuum of Care to take remedial steps to ensure reasonable participation in the future. HUD may also reduce the award to the Continuum's applicant(s).
- (c) ***Denied or decreased funding.***
 - (1) ***Who may appeal.*** Eligible applicants that are denied funds by HUD, or that requested more funds than HUD awarded to them, may appeal the award by filing a written appeal, in such form and manner as HUD may require by Notice, within 45 days of the date of HUD's announcement of the award.
 - (2) ***Decision.*** HUD will notify the applicant of its decision on the appeal within 60 days of HUD's receipt of the written appeal. HUD will reverse a decision only when the applicant can show that HUD error caused the denial or decrease.
 - (3) ***Funding.*** Awards and increases to awards made upon appeal will be made from next available funds.
- (d) ***Competing Continuums of Care.***

- (1) ***In general.*** If more than one Continuum of Care claims the same geographic area, HUD will award funds to the Continuum applicant(s) whose application(s) has the highest total score. No projects will be funded from the lower scoring Continuum. No projects that are submitted in two or more competing Continuum of Care applications will be funded.
- (2) ***Who may appeal.*** The designated applicant(s) for the lower scoring Continuum may appeal HUD's decision to fund the application(s) from the competing Continuum by filing a written appeal, in such form and manner as HUD may require by Notice, within 45 days of the date of HUD's announcement of the award.
- (3) ***Decision.*** HUD will notify the applicant(s) of its decision on the appeal within 60 days of the date of HUD's receipt of the written appeal. HUD will reverse a decision only upon a showing by the applicant that HUD error caused the denial.

(e) ***Consolidated plan certification.***

- (1) ***In general.*** An applicant may appeal to HUD a jurisdiction's refusal to provide a certification of consistency with the Consolidated Plan.
- (2) ***Procedure.*** The applicant must submit a written appeal with its application to HUD and send a copy of the appeal to the jurisdiction that denied the certification of consistency. The appeal must include, at a minimum:
 - (i) A copy of the applicant's request to the jurisdiction for the certification of consistency with the Consolidated Plan;
 - (ii) A copy of the jurisdiction's response stating the reasons for denial, including the reasons the proposed project is not consistent with the jurisdiction's Consolidated Plan in accordance with 24 CFR 91.500(c); and
 - (iii) A statement of the reasons why the applicant believes its project is consistent with the jurisdiction's Consolidated Plan.
- (3) ***Jurisdiction response.*** The jurisdiction that refused to provide the certification of consistency with the jurisdiction's Consolidated Plan shall have 10 days after receipt of a copy of the appeal to submit a written explanation of the reasons originally given for refusing to provide the certification and a written rebuttal to any claims made by the applicant in the appeal.
- (4) ***HUD review.***
 - (i) HUD will issue its decision within 45 days of the date of HUD's receipt of the jurisdiction's response. As part of its review, HUD will consider:
 - (A) Whether the applicant submitted the request to the appropriate political jurisdiction; and
 - (B) The reasonableness of the jurisdiction's refusal to provide the certificate.
 - (ii) If the jurisdiction did not provide written reasons for refusal, including the reasons why the project is not consistent with the jurisdiction's Consolidated Plan in its initial response to the applicant's request for a certification, HUD will find for the applicant without further inquiry or response from the political jurisdiction.

Subpart D - Program Components and Eligible Costs

§ 578.37 Program components and uses of assistance.

- (a) Continuum of Care funds may be used to pay for the eligible costs listed in § 578.39 through § 578.63 when used to establish and operate projects under five program components: permanent housing; transitional housing; supportive services only; HMIS; and, in some cases, homelessness prevention. Although grant funds may be used by recipients and subrecipients in all components for the eligible costs of contributing data to the HMIS designated by the Continuum of Care, only HMIS Leads may use grant funds for an HMIS component. Administrative costs are eligible for all components. All components are subject to the restrictions on combining funds for certain eligible activities in a single project found in § 578.87(c). The eligible program components are:
- (1) **Permanent housing (PH).** Permanent housing is community-based housing, the purpose of which is to provide housing without a designated length of stay. Grant funds may be used for acquisition, rehabilitation, new construction, leasing, rental assistance, operating costs, and supportive services. PH includes:
 - (i) **Permanent supportive housing for persons with disabilities (PSH).** PSH can only provide assistance to individuals with disabilities and families in which one adult or child has a disability. Supportive services designed to meet the needs of the program participants must be made available to the program participants.
 - (ii) **Rapid rehousing.** Continuum of Care funds may provide supportive services, as set forth in § 578.53, and/or short-term (up to 3 months) and/or medium-term (for 3 to 24 months) tenant-based rental assistance, as set forth in § 578.51(c), as necessary to help a homeless individual or family, with or without disabilities, move as quickly as possible into permanent housing and achieve stability in that housing. When providing short-term and/or medium-term rental assistance to program participants, the rental assistance is subject to § 578.51(a)(1), but not § 578.51(a)(1)(i) and (ii); (a)(2); (c) and (f) through (i); and (l)(1). These projects:
 - (A) Must follow the written policies and procedures established by the Continuum of Care for determining and prioritizing which eligible families and individuals will receive rapid rehousing assistance, as well as the amount or percentage of rent that each program participant must pay.
 - (B) May set a maximum amount or percentage of rental assistance that a program participant may receive, a maximum number of months that a program participant may receive rental assistance, and/or a maximum number of times that a program participant may receive rental assistance. The recipient or subrecipient may also require program participants to share in the costs of rent. For the purposes of calculating rent for rapid rehousing, the rent shall equal the sum of the total monthly rent for the unit and, if the tenant pays separately for utilities, the monthly allowance for utilities (excluding telephone) established by the public housing authority for the area in which the housing is located.
 - (C) Limit rental assistance to no more than 24 months to a household.
 - (D) May provide supportive services for no longer than 6 months after rental assistance stops.
 - (E) Must re-evaluate, not less than once annually, that the program participant lacks sufficient resources and support networks necessary to retain housing without Continuum of Care assistance and the types and amounts of assistance that the program participant needs to retain housing. The recipient or subrecipient may require each program participant

receiving assistance to notify the recipient or subrecipient of changes in the program participant's income or other circumstances (e.g., changes in household composition) that affect the program participant's need for assistance. When notified of a relevant change, the recipient or subrecipient must reevaluate the program participant's eligibility and the amount and types of assistance that the program participant needs.

- (F) Require the program participant to meet with a case manager not less than once per month to assist the program participant in ensuring long-term housing stability. The project is exempt from this requirement if the Violence Against Women Act of 1994 (42 U.S.C. 13925 *et seq.*) or the Family Violence Prevention and Services Act (42 U.S.C. 10401 *et seq.*) prohibits the recipient carrying out the project from making its housing conditional on the participant's acceptance of services.
- (2) **Transitional Housing (TH).** Transitional housing facilitates the movement of homeless individuals and families to PH within 24 months of entering TH. Grant funds may be used for acquisition, rehabilitation, new construction, leasing, rental assistance, operating costs, and supportive services.
- (3) **Supportive Service Only (SSO).** Funds may be used for acquisition, rehabilitation, relocation costs, or leasing of a facility from which supportive services will be provided, and supportive services in order to provide supportive services to unsheltered and sheltered homeless persons for whom the recipient or subrecipient is not providing housing or housing assistance. SSO includes street outreach.
- (4) **HMIS.** Funds may be used by HMIS Leads to lease a structure in which the HMIS is operated or as operating funds to operate a structure in which the HMIS is operated, and for other costs eligible in § 578.57.
- (5) **Homelessness prevention.** Funds may be used by recipients in Continuums of Care-designated high-performing communities for housing relocation and stabilization services, and short- and/or medium-term rental assistance, as described in 24 CFR 576.105 and 24 CFR 576.106, that are necessary to prevent an individual or family from becoming homeless.
- (b) **Uses of assistance.** Funds are available to pay for the eligible costs listed in § 578.39 through § 578.63 when used to:
 - (1) Establish new housing or new facilities to provide supportive services;
 - (2) Expand existing housing and facilities in order to increase the number of homeless persons served;
 - (3) Bring existing housing and facilities into compliance with State and local government health and safety standards, as described in § 578.87;
 - (4) Preserve existing permanent housing and facilities that provide supportive services;
 - (5) Provide supportive services for residents of supportive housing or for homeless persons not residing in supportive housing;
 - (6) Continue funding permanent housing when the recipient has received funding under this part for leasing, supportive services, operating costs, or rental assistance;
 - (7) Establish and operate an HMIS or comparable database; and
 - (8) Establish and carry out a Continuum of Care planning process and operate a Continuum of Care.

- (c) **Multiple purposes.** Structures used to provide housing, supportive housing, supportive services, or as a facility for HMIS activities may also be used for other purposes. However, assistance under this part will be available only in proportion to the use of the structure for supportive housing or supportive services. If eligible and ineligible activities are carried out in separate portions of the same structure or in separate structures, grant funds may not be used to pay for more than the actual cost of acquisition, construction, or rehabilitation of the portion of the structure or structures used for eligible activities. If eligible and ineligible activities are carried out in the same structure, the costs will be prorated based on the amount of time that the space is used for eligible versus ineligible activities.

§ 578.39 Continuum of Care planning activities.

- (a) **In general.** Collaborative applicants may use up to 3 percent of their FPRN, or a maximum amount to be established by the NOFA, for costs of:
 - (1) Designing and carrying out a collaborative process for the development of an application to HUD;
 - (2) Evaluating the outcomes of projects for which funds are awarded in the geographic area under the Continuum of Care and the Emergency Solutions Grants programs; and
 - (3) Participating in the consolidated plan(s) for the geographic area(s).
- (b) **Continuum of Care planning activities.** Eligible planning costs include the costs of:
 - (1) Developing a communitywide or regionwide process involving the coordination of nonprofit homeless providers, victim service providers, faith-based organizations, governments, businesses, advocates, public housing agencies, school districts, social service providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement, organizations that serve veterans, and homeless and formerly homeless individuals;
 - (2) Determining the geographic area that the Continuum of Care will serve;
 - (3) Developing a Continuum of Care system;
 - (4) Evaluating the outcomes of projects for which funds are awarded in the geographic area, including the Emergency Solutions Grants program;
 - (5) Participating in the consolidated plan(s) of the jurisdiction(s) in the geographic area; and
 - (6) Preparing and submitting an application to HUD on behalf of the entire Continuum of Care membership, including conducting a sheltered and unsheltered point-in-time count and other data collection as required by HUD.
- (c) **Monitoring costs.** The costs of monitoring recipients and subrecipients and enforcing compliance with program requirements are eligible.

§ 578.41 Unified Funding Agency costs.

- (a) **In general.** UFAs may use up to 3 percent of their FPRN, or a maximum amount to be established by the NOFA, whichever is less, for fiscal control and accounting costs necessary to assure the proper disbursement of, and accounting for, federal funds awarded to subrecipients under the Continuum of Care program.
- (b) **UFA costs.** UFA costs include costs of ensuring that all financial transactions carried out under the Continuum of Care program are conducted and records are maintained in accordance with generally accepted accounting principles, including arranging for an annual survey, audit, or evaluation of the financial records of each project carried out by a subrecipient funded by a grant received through the Continuum of Care program.

- (c) **Monitoring costs.** The costs of monitoring subrecipients and enforcing compliance with program requirements are eligible for costs.

§ 578.43 Acquisition.

Grant funds may be used to pay up to 100 percent of the cost of acquisition of real property selected by the recipient or subrecipient for use in the provision of housing or supportive services for homeless persons.

§ 578.45 Rehabilitation.

- (a) **Use.** Grant funds may be used to pay up to 100 percent of the cost of rehabilitation of structures to provide housing or supportive services to homeless persons.
- (b) **Eligible costs.** Eligible rehabilitation costs include installing cost-effective energy measures, and bringing an existing structure to State and local government health and safety standards.
- (c) **Ineligible costs.** Grant funds may not be used for rehabilitation of leased property.
- (d) **Broadband infrastructure.** Any substantial rehabilitation, as defined by 24 CFR 5.100, of a building with more than 4 rental units and funded by a grant awarded after January 19, 2017 must include installation of broadband infrastructure, as this term is also defined in 24 CFR 5.100, except where the grantee determines and, in accordance with § 578.103, documents the determination that:
 - (1) The location of the substantial rehabilitation makes installation of broadband infrastructure infeasible;
 - (2) The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or
 - (3) The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

[77 FR 45442, July 31, 2012, as amended at 81 FR 92637, Dec. 20, 2016]

§ 578.47 New construction.

- (a) **Use.** Grant funds may be used to:
 - (1) Pay up to 100 percent of the cost of new construction, including the building of a new structure or building an addition to an existing structure that increases the floor area by 100 percent or more, and the cost of land associated with that construction, for use as housing.
 - (2) If grant funds are used for new construction, the applicant must demonstrate that the costs of new construction are substantially less than the costs of rehabilitation or that there is a lack of available appropriate units that could be rehabilitated at a cost less than new construction. For purposes of this cost comparison, costs of rehabilitation or new construction may include the cost of real property acquisition.
- (b) **Ineligible costs.** Grant funds may not be used for new construction on leased property.
- (c) **Broadband infrastructure.** Any new construction of a building with more than 4 rental units and funded by a grant awarded after January 19, 2017 must include installation of broadband infrastructure, as this term is defined in 24 CFR 5.100, except where the grantee determines and, in accordance with § 578.103, documents the determination that:

- (1) The location of the new construction makes installation of broadband infrastructure infeasible; or
- (2) The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden.

[77 FR 45442, July 31, 2012, as amended at 81 FR 92637, Dec. 20, 2016]

§ 578.49 Leasing.

(a) Use.

- (1) Where the recipient or subrecipient is leasing the structure, or portions thereof, grant funds may be used to pay for 100 percent of the costs of leasing a structure or structures, or portions thereof, to provide housing or supportive services to homeless persons for up to 3 years. Leasing funds may not be used to lease units or structures owned by the recipient, subrecipient, their parent organization(s), any other related organization(s), or organizations that are members of a partnership, where the partnership owns the structure, unless HUD authorized an exception for good cause.
- (2) Any request for an exception must include the following:
 - (i) A description of how leasing these structures is in the best interest of the program;
 - (ii) Supporting documentation showing that the leasing charges paid with grant funds are reasonable for the market; and
 - (iii) A copy of the written policy for resolving disputes between the landlord and tenant, including a recusal for officers, agents, and staff who work for both the landlord and tenant.

(b) Requirements.

- (1) **Leasing structures.** When grants are used to pay rent for all or part of a structure or structures, the rent paid must be reasonable in relation to rents being charged in the area for comparable space. In addition, the rent paid may not exceed rents currently being charged by the same owner for comparable unassisted space.
- (2) **Leasing individual units.** When grants are used to pay rent for individual housing units, the rent paid must be reasonable in relation to rents being charged for comparable units, taking into account the location, size, type, quality, amenities, facilities, and management services. In addition, the rents may not exceed rents currently being charged for comparable units, and the rent paid may not exceed HUD-determined fair market rents.
- (3) **Utilities.** If electricity, gas, and water are included in the rent, these utilities may be paid from leasing funds. If utilities are not provided by the landlord, these utility costs are an operating cost, except for supportive service facilities. If the structure is being used as a supportive service facility, then these utility costs are a supportive service cost.
- (4) **Security deposits and first and last month's rent.** Recipients and subrecipients may use grant funds to pay security deposits, in an amount not to exceed 2 months of actual rent. An advance payment of the last month's rent may be provided to the landlord in addition to the security deposit and payment of the first month's rent.
- (5) **Occupancy agreements and subleases.** Occupancy agreements and subleases are required as specified in § 578.77(a).

- (6) **Calculation of occupancy charges and rent.** Occupancy charges and rent from program participants must be calculated as provided in § 578.77.
- (7) **Program income.** Occupancy charges and rent collected from program participants are program income and may be used as provided under § 578.97.
- (8) **Transition.** Beginning in the first year awards are made under the Continuum of Care program, renewals of grants for leasing funds entered into under the authority of title IV, subtitle D of the Act as it existed before May 20, 2009, will be renewed either as grants for leasing or as rental assistance, depending on the characteristics of the project. Leasing funds will be renewed as rental assistance if the funds are used to pay rent on units where the lease is between the program participant and the landowner or sublessor. Projects requesting leasing funds will be renewed as leasing if the funds were used to lease a unit or structure and the lease is between the recipient or subrecipient and the landowner.

§ 578.51 Rental assistance.

(a) **Use.**

- (1) Grant funds may be used for rental assistance for homeless individuals and families. Rental assistance cannot be provided to a program participant who is already receiving rental assistance, or living in a housing unit receiving rental assistance or operating assistance through other federal, State, or local sources.
 - (i) The rental assistance may be short-term, up to 3 months of rent; medium-term, for 3 to 24 months of rent; or long-term, for longer than 24 months of rent and must be administered in accordance with the policies and procedures established by the Continuum as set forth in § 578.7(a)(9) and this section.
 - (ii) The rental assistance may be tenant-based, project-based, or sponsor-based, and may be for transitional or permanent housing.
- (2) Grant funds may be used for security deposits in an amount not to exceed 2 months of rent. An advance payment of the last month's rent may be provided to the landlord, in addition to the security deposit and payment of first month's rent.

(b) **Rental assistance administrator.** Rental assistance must be administered by a State, unit of general local government, or a public housing agency.

(c) **Tenant-based rental assistance.** Tenant-based rental assistance is rental assistance in which program participants choose housing of an appropriate size in which to reside. Up to 5 years' worth of rental assistance may be awarded to a project in one competition.

- (1) When necessary to facilitate the coordination of supportive services, recipients and subrecipients may require program participants to live in a specific area for their entire period of participation, or in a specific structure for the first year and in a specific area for the remainder of their period of participation. Program participants who are receiving rental assistance in transitional housing may be required to live in a specific structure for their entire period of participation in transitional housing.
- (2) Program participants who have complied with all program requirements during their residence retain the rental assistance if they move.

(3) Program participants who have complied with all program requirements during their residence, who have been a victim of domestic violence, dating violence, sexual assault, or stalking, who reasonably believe they are imminently threatened by harm from further domestic violence, dating violence, sexual assault, or stalking (which would include threats from a third party, such as a friend or family member of the perpetrator of the violence) if they remain in the assisted unit, and who are able to document the violence and basis for their belief, may retain the rental assistance and move to a different Continuum of Care geographic area if they move out of the assisted unit to protect their health and safety. These program participants may move to a different Continuum of Care's geographic service area even if the recipient or subrecipient cannot meet all regulatory requirements of this part in the new geographic area where the unit is located. The recipient or subrecipient, however, must be able to meet all statutory requirements of the Continuum of Care program either directly or through a third-party contract or agreement.

(4) Program participants other than those described in paragraph (c)(3) of this section may choose housing outside of the Continuum of Care's geographic area if the recipient or subrecipient, through its employees or contractors, is able to meet all requirements of this part in the geographic area where the program participant chooses housing. If the recipient or subrecipient is unable to meet the requirements of this part, either directly or through a third-party contract or agreement, the recipient or subrecipient may refuse to permit the program participant to retain the tenant-based rental assistance if the program participant chooses to move outside of the Continuum of Care's geographic area.

(d) **Sponsor-based rental assistance.** Sponsor-based rental assistance is provided through contracts between the recipient and sponsor organization. A sponsor may be a private, nonprofit organization, or a community mental health agency established as a public nonprofit organization. Program participants must reside in housing owned or leased by the sponsor. Up to 5 years worth of rental assistance may be awarded to a project in one competition.

(e) **Project-based rental assistance.** Project-based rental assistance is provided through a contract with the owner of an existing structure, where the owner agrees to lease the subsidized units to program participants. Program participants will not retain rental assistance if they move. Up to 15 years of rental assistance may be awarded in one competition.

(f) **Grant amount.** The amount of rental assistance in each project will be based on the number and size of units proposed by the applicant to be assisted over the grant period. The amount of rental assistance in each project will be calculated by multiplying the number and size of units proposed by the FMR of each unit on the date the application is submitted to HUD, by the term of the grant.

(g) **Rent reasonableness.** HUD will only provide rental assistance for a unit if the rent is reasonable. The recipient or subrecipient must determine whether the rent charged for the unit receiving rental assistance is reasonable in relation to rents being charged for comparable unassisted units, taking into account the location, size, type, quality, amenities, facilities, and management and maintenance of each unit. Reasonable rent must not exceed rents currently being charged by the same owner for comparable unassisted units.

(h) **Payment of grant.**

(1) The amount of rental assistance in each project will be reserved for rental assistance over the grant period. An applicant's request for rental assistance in each grant is an estimate of the amount needed for rental assistance. Recipients will make draws from the grant funds to pay the actual costs of rental assistance for program participants.

- (2) For tenant-based rental assistance, on demonstration of need:
 - (i) Up to 25 percent of the total rental assistance awarded may be spent in any year of a 5-year grant term; or
 - (ii) A higher percentage if approved in advance by HUD, if the recipient provides evidence satisfactory to HUD that it is financially committed to providing the housing assistance described in the application for the full 5-year period.
- (3) A recipient must serve at least as many program participants as shown in its application for assistance.
- (4) If the amount in each grant reserved for rental assistance over the grant period exceeds the amount that will be needed to pay the actual costs of rental assistance, due to such factors as contract rents being lower than FMRs and program participants being able to pay a portion of the rent, recipients or subrecipients may use the excess funds for covering the costs of rent increases, or for serving a greater number of program participants.
- (i) **Vacancies.** If a unit assisted under this section is vacated before the expiration of the lease, the assistance for the unit may continue for a maximum of 30 days from the end of the month in which the unit was vacated, unless occupied by another eligible person. No additional assistance will be paid until the unit is occupied by another eligible person. Brief periods of stays in institutions, not to exceed 90 days for each occurrence, are not considered vacancies.
- (j) **Property damage.** Recipients and subrecipients may use grant funds in an amount not to exceed one month's rent to pay for any damage to housing due to the action of a program participant. This shall be a one-time cost per participant, incurred at the time a participant exits a housing unit.
- (k) **Resident rent.** Rent must be calculated as provided in § 578.77. Rents collected from program participants are program income and may be used as provided under § 578.97.
- (l) **Leases.**
 - (1) **Initial lease.** For project-based, sponsor-based, or tenant-based rental assistance, program participants must enter into a lease agreement for a term of at least one year, which is terminable for cause. The leases must be automatically renewable upon expiration for terms that are a minimum of one month long, except on prior notice by either party.
 - (2) **Initial lease for transitional housing.** Program participants in transitional housing must enter into a lease agreement for a term of at least one month. The lease must be automatically renewable upon expiration, except on prior notice by either party, up to a maximum term of 24 months.
- (m) **VAWA emergency transfer plan costs.** Recipients and subrecipients of grants for tenant-based rental assistance may use grant funds to pay amounts owed for breaking the lease if the family qualifies for an emergency transfer under the emergency transfer plan established under § 578.99(j)(8).

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§ 578.53 Supportive services.

- (a) ***In general.*** Grant funds may be used to pay the eligible costs of supportive services that address the special needs of the program participants. If the supportive services are provided in a supportive service facility not contained in a housing structure, the costs of day-to-day operation of the supportive service facility, including maintenance, repair, building security, furniture, utilities, and equipment are eligible as a supportive service.
- (1) Supportive services must be necessary to assist program participants obtain and maintain housing.
 - (2) Recipients and subrecipients shall conduct an annual assessment of the service needs of the program participants and should adjust services accordingly.
- (b) ***Duration.***
- (1) For a transitional housing project, supportive services must be made available to residents throughout the duration of their residence in the project.
 - (2) Permanent supportive housing projects must provide supportive services for the residents to enable them to live as independently as is practicable throughout the duration of their residence in the project.
 - (3) Services may also be provided to former residents of transitional housing and current residents of permanent housing who were homeless in the prior 6 months, for no more than 6 months after leaving transitional housing or homelessness, respectively, to assist their adjustment to independent living.
 - (4) Rapid rehousing projects must require the program participant to meet with a case manager not less than once per month as set forth in § 578.37(a)(1)(ii)(F), to assist the program participant in maintaining long-term housing stability.
- (c) ***Special populations.*** All eligible costs are eligible to the same extent for program participants who are unaccompanied homeless youth; persons living with HIV/AIDS; and victims of domestic violence, dating violence, sexual assault, or stalking.
- (d) ***Ineligible costs.*** Any cost that is not described as an eligible cost under this section is not an eligible cost of providing supportive services using Continuum of Care program funds. Staff training and the costs of obtaining professional licenses or certifications needed to provide supportive services are not eligible costs.
- (e) ***Eligible costs.***
- (1) ***Annual Assessment of Service Needs.*** The costs of the assessment required by § 578.53(a)(2) are eligible costs.
 - (2) ***Assistance with moving costs.*** Reasonable one-time moving costs are eligible and include truck rental and hiring a moving company.
 - (3) ***Case management.*** The costs of assessing, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant(s) are eligible costs. Component services and activities consist of:
 - (i) Counseling;
 - (ii) Developing, securing, and coordinating services;

- (iii) Using the centralized or coordinated assessment system as required under § 578.23(c)(9).
 - (iv) Obtaining federal, State, and local benefits;
 - (v) Monitoring and evaluating program participant progress;
 - (vi) Providing information and referrals to other providers;
 - (vii) Providing ongoing risk assessment and safety planning with victims of domestic violence, dating violence, sexual assault, and stalking; and
 - (viii) Developing an individualized housing and service plan, including planning a path to permanent housing stability.
- (4) **Child care.** The costs of establishing and operating child care, and providing child-care vouchers, for children from families experiencing homelessness, including providing meals and snacks, and comprehensive and coordinated developmental activities, are eligible.
- (i) The children must be under the age of 13, unless they are disabled children.
 - (ii) Disabled children must be under the age of 18.
 - (iii) The child-care center must be licensed by the jurisdiction in which it operates in order for its costs to be eligible.
- (5) **Education services.** The costs of improving knowledge and basic educational skills are eligible.
- (i) Services include instruction or training in consumer education, health education, substance abuse prevention, literacy, English as a Second Language, and General Educational Development (GED).
 - (ii) Component services or activities are screening, assessment and testing; individual or group instruction; tutoring; provision of books, supplies, and instructional material; counseling; and referral to community resources.
- (6) **Employment assistance and job training.** The costs of establishing and operating employment assistance and job training programs are eligible, including classroom, online and/or computer instruction, on-the-job instruction, services that assist individuals in securing employment, acquiring learning skills, and/or increasing earning potential. The cost of providing reasonable stipends to program participants in employment assistance and job training programs is also an eligible cost.
- (i) Learning skills include those skills that can be used to secure and retain a job, including the acquisition of vocational licenses and/or certificates.
 - (ii) Services that assist individuals in securing employment consist of:
 - (A) Employment screening, assessment, or testing;
 - (B) Structured job skills and job-seeking skills;
 - (C) Special training and tutoring, including literacy training and pre-vocational training;
 - (D) Books and instructional material;
 - (E) Counseling or job coaching; and
 - (F) Referral to community resources.
- (7) **Food.** The cost of providing meals or groceries to program participants is eligible.

- (8) **Housing search and counseling services.** Costs of assisting eligible program participants to locate, obtain, and retain suitable housing are eligible.
- (i) Component services or activities are tenant counseling; assisting individuals and families to understand leases; securing utilities; and making moving arrangements.
 - (ii) Other eligible costs are:
 - (A) Mediation with property owners and landlords on behalf of eligible program participants;
 - (B) Credit counseling, accessing a free personal credit report, and resolving personal credit issues; and
 - (C) The payment of rental application fees.
 - (iii) Housing counseling, as defined in § 5.100, that is funded with or provided in connection with grant funds must be carried out in accordance with § 5.111. When recipients or subrecipients provide housing services to eligible persons that are incidental to a larger set of holistic case management services, these services do not meet the definition of Housing counseling, as defined in § 5.100, and therefore are not required to be carried out in accordance with the certification requirements of § 5.111.
- (9) **Legal services.** Eligible costs are the fees charged by licensed attorneys and by person(s) under the supervision of licensed attorneys, for advice and representation in matters that interfere with the homeless individual or family's ability to obtain and retain housing.
- (i) Eligible subject matters are child support; guardianship; paternity; emancipation; legal separation; orders of protection and other civil remedies for victims of domestic violence, dating violence, sexual assault, and stalking; appeal of veterans and public benefit claim denials; landlord tenant disputes; and the resolution of outstanding criminal warrants.
 - (ii) Component services or activities may include receiving and preparing cases for trial, provision of legal advice, representation at hearings, and counseling.
 - (iii) Fees based on the actual service performed (i.e., fee for service) are also eligible, but only if the cost would be less than the cost of hourly fees. Filing fees and other necessary court costs are also eligible. If the subrecipient is a legal services provider and performs the services itself, the eligible costs are the subrecipient's employees' salaries and other costs necessary to perform the services.
 - (iv) Legal services for immigration and citizenship matters and issues related to mortgages and homeownership are ineligible. Retainer fee arrangements and contingency fee arrangements are ineligible.
- (10) **Life skills training.** The costs of teaching critical life management skills that may never have been learned or have been lost during the course of physical or mental illness, domestic violence, substance abuse, and homelessness are eligible. These services must be necessary to assist the program participant to function independently in the community. Component life skills training are the budgeting of resources and money management, household management, conflict management, shopping for food and other needed items, nutrition, the use of public transportation, and parent training.

- (11) **Mental health services.** Eligible costs are the direct outpatient treatment of mental health conditions that are provided by licensed professionals. Component services are crisis interventions; counseling; individual, family, or group therapy sessions; the prescription of psychotropic medications or explanations about the use and management of medications; and combinations of therapeutic approaches to address multiple problems.
- (12) **Outpatient health services.** Eligible costs are the direct outpatient treatment of medical conditions when provided by licensed medical professionals including:
 - (i) Providing an analysis or assessment of an individual's health problems and the development of a treatment plan;
 - (ii) Assisting individuals to understand their health needs;
 - (iii) Providing directly or assisting individuals to obtain and utilize appropriate medical treatment;
 - (iv) Preventive medical care and health maintenance services, including in-home health services and emergency medical services;
 - (v) Provision of appropriate medication;
 - (vi) Providing follow-up services; and
 - (vii) Preventive and noncosmetic dental care.
- (13) **Outreach services.** The costs of activities to engage persons for the purpose of providing immediate support and intervention, as well as identifying potential program participants, are eligible.
 - (i) Eligible costs include the outreach worker's transportation costs and a cell phone to be used by the individual performing the outreach.
 - (ii) Component activities and services consist of: initial assessment; crisis counseling; addressing urgent physical needs, such as providing meals, blankets, clothes, or toiletries; actively connecting and providing people with information and referrals to homeless and mainstream programs; and publicizing the availability of the housing and/or services provided within the geographic area covered by the Continuum of Care.
- (14) **Substance abuse treatment services.** The costs of program participant intake and assessment, outpatient treatment, group and individual counseling, and drug testing are eligible. Inpatient detoxification and other inpatient drug or alcohol treatment are ineligible.
- (15) **Transportation.** Eligible costs are:
 - (i) The costs of program participant's travel on public transportation or in a vehicle provided by the recipient or subrecipient to and from medical care, employment, child care, or other services eligible under this section.
 - (ii) Mileage allowance for service workers to visit program participants and to carry out housing quality inspections;
 - (iii) The cost of purchasing or leasing a vehicle in which staff transports program participants and/or staff serving program participants;
 - (iv) The cost of gas, insurance, taxes, and maintenance for the vehicle;
 - (v) The costs of recipient or subrecipient staff to accompany or assist program participants to utilize public transportation; and

- (vi) If public transportation options are not sufficient within the area, the recipient may make a one-time payment on behalf of a program participant needing car repairs or maintenance required to operate a personal vehicle, subject to the following:
 - (A) Payments for car repairs or maintenance on behalf of the program participant may not exceed 10 percent of the Blue Book value of the vehicle (Blue Book refers to the guidebook that compiles and quotes prices for new and used automobiles and other vehicles of all makes, models, and types);
 - (B) Payments for car repairs or maintenance must be paid by the recipient or subrecipient directly to the third party that repairs or maintains the car; and
 - (C) The recipients or subrecipients may require program participants to share in the cost of car repairs or maintenance as a condition of receiving assistance with car repairs or maintenance.
- (16) **Utility deposits.** This form of assistance consists of paying for utility deposits. Utility deposits must be a one-time fee, paid to utility companies.
- (17) **Direct provision of services.** If the service described in paragraphs (e)(1) through (e)(16) of this section is being directly delivered by the recipient or subrecipient, eligible costs for those services also include:
 - (i) The costs of labor or supplies, and materials incurred by the recipient or subrecipient in directly providing supportive services to program participants; and
 - (ii) The salary and benefit packages of the recipient and subrecipient staff who directly deliver the services.

[77 FR 45442, July 31, 2012, as amended at 81 FR 90660, Dec. 14, 2016]

§ 578.55 Operating costs.

- (a) **Use.** Grant funds may be used to pay the costs of the day-to-day operation of transitional and permanent housing in a single structure or individual housing units.
- (b) **Eligible costs.**
 - (1) The maintenance and repair of housing;
 - (2) Property taxes and insurance;
 - (3) Scheduled payments to a reserve for replacement of major systems of the housing (provided that the payments must be based on the useful life of the system and expected replacement cost);
 - (4) Building security for a structure where more than 50 percent of the units or area is paid for with grant funds;
 - (5) Electricity, gas, and water;
 - (6) Furniture; and
 - (7) Equipment.

- (c) **Ineligible costs.** Program funds may not be used for rental assistance and operating costs in the same project. Program funds may not be used for the operating costs of emergency shelter- and supportive service-only facilities. Program funds may not be used for the maintenance and repair of housing where the costs of maintaining and repairing the housing are included in the lease.

§ 578.57 Homeless Management Information System.

- (a) **Eligible costs.**

- (1) The recipient or subrecipient may use Continuum of Care program funds to pay the costs of contributing data to the HMIS designated by the Continuum of Care, including the costs of:
 - (i) Purchasing or leasing computer hardware;
 - (ii) Purchasing software or software licenses;
 - (iii) Purchasing or leasing equipment, including telephones, fax machines, and furniture;
 - (iv) Obtaining technical support;
 - (v) Leasing office space;
 - (vi) Paying charges for electricity, gas, water, phone service, and high-speed data transmission necessary to operate or contribute data to the HMIS;
 - (vii) Paying salaries for operating HMIS, including:
 - (A) Completing data entry;
 - (B) Monitoring and reviewing data quality;
 - (C) Completing data analysis;
 - (D) Reporting to the HMIS Lead;
 - (E) Training staff on using the HMIS; and
 - (F) Implementing and complying with HMIS requirements;
 - (viii) Paying costs of staff to travel to and attend HUD-sponsored and HUD-approved training on HMIS and programs authorized by Title IV of the McKinney-Vento Homeless Assistance Act;
 - (ix) Paying staff travel costs to conduct intake; and
 - (x) Paying participation fees charged by the HMIS Lead, as authorized by HUD, if the recipient or subrecipient is not the HMIS Lead.
- (2) If the recipient or subrecipient is the HMIS Lead, it may also use Continuum of Care funds to pay the costs of:
 - (i) Hosting and maintaining HMIS software or data;
 - (ii) Backing up, recovering, or repairing HMIS software or data;
 - (iii) Upgrading, customizing, and enhancing the HMIS;
 - (iv) Integrating and warehousing data, including development of a data warehouse for use in aggregating data from subrecipients using multiple software systems;
 - (v) Administering the system;

- (vi) Reporting to providers, the Continuum of Care, and HUD; and
 - (vii) Conducting training on using the system, including traveling to the training.
- (3) If the recipient or subrecipient is a victim services provider, or a legal services provider, it may use Continuum of Care funds to establish and operate a comparable database that complies with HUD's HMIS requirements.

(b) **General restrictions.** Activities funded under this section must comply with the HMIS requirements.

§ 578.59 Project administrative costs.

(a) **Eligible costs.** The recipient or subrecipient may use up to 10 percent of any grant awarded under this part, excluding the amount for Continuum of Care Planning Activities and UFA costs, for the payment of project administrative costs related to the planning and execution of Continuum of Care activities. This does not include staff and overhead costs directly related to carrying out activities eligible under § 578.43 through § 578.57, because those costs are eligible as part of those activities. Eligible administrative costs include:

- (1) **General management, oversight, and coordination.** Costs of overall program management, coordination, monitoring, and evaluation. These costs include, but are not limited to, necessary expenditures for the following:
- (i) Salaries, wages, and related costs of the recipient's staff, the staff of subrecipients, or other staff engaged in program administration. In charging costs to this category, the recipient may include the entire salary, wages, and related costs allocable to the program of each person whose primary responsibilities with regard to the program involve program administration assignments, or the pro rata share of the salary, wages, and related costs of each person whose job includes any program administration assignments. The recipient may use only one of these methods for each fiscal year grant. Program administration assignments include the following:
 - (A) Preparing program budgets and schedules, and amendments to those budgets and schedules;
 - (B) Developing systems for assuring compliance with program requirements;
 - (C) Developing agreements with subrecipients and contractors to carry out program activities;
 - (D) Monitoring program activities for progress and compliance with program requirements;
 - (E) Preparing reports and other documents directly related to the program for submission to HUD;
 - (F) Coordinating the resolution of audit and monitoring findings;
 - (G) Evaluating program results against stated objectives; and
 - (H) Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described in paragraph (a)(1)(i)(A) through (G) of this section.
 - (ii) Travel costs incurred for monitoring of subrecipients;
 - (iii) Administrative services performed under third-party contracts or agreements, including general legal services, accounting services, and audit services; and

(iv) Other costs for goods and services required for administration of the program, including rental or purchase of equipment, insurance, utilities, office supplies, and rental and maintenance (but not purchase) of office space.

(2) **Training on Continuum of Care requirements.** Costs of providing training on Continuum of Care requirements and attending HUD-sponsored Continuum of Care trainings.

(3) **Environmental review.** Costs of carrying out the environmental review responsibilities under § 578.31.

(b) **Sharing requirement.**

(1) **UFAs.** If the recipient is a UFA that carries out a project, it may use up to 10 percent of the grant amount awarded for the project on project administrative costs. The UFA must share the remaining project administrative funds with its subrecipients.

(2) **Recipients that are not UFAs.** If the recipient is not a UFA, it must share at least 50 percent of project administrative funds with its subrecipients.

§ 578.61 Relocation costs.

(a) **In general.** Relocation costs under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 are eligible.

(b) **Eligible relocation costs.** Eligible costs are costs to provide relocation payments and other assistance to persons displaced by a project assisted with grant funds in accordance with § 578.83.

§ 578.63 Indirect costs.

(a) **In general.** Continuum of Care funds may be used to pay indirect costs in accordance with 2 CFR part 200, subpart E.

(b) **Allocation.** Indirect costs may be allocated to each eligible activity as provided in this subpart, so long as that allocation is consistent with an indirect cost rate proposal developed in accordance with 2 CFR part 200, subpart E.

(c) **Expenditure limits.** The indirect costs charged to an activity subject to an expenditure limit under §§ 578.39, 578.41, and 578.59 must be added to the direct costs charged for that activity when determining the total costs subject to the expenditure limits.

[77 FR 45442, July 31, 2012, as amended at 80 FR 75939, Dec. 7, 2015]

Subpart E - High-Performing Communities

§ 578.65 Standards.

(a) **In general.** The collaborative applicant for a Continuum may apply to HUD to have the Continuum be designated a high-performing community (HPC). The designation shall be for grants awarded in the same competition in which the designation is applied for and made.

(b) **Applying for HPC designation.** The application must be submitted at such time and in such manner as HUD may require, must use HMIS data where required to show the standards for qualifying are met, and must contain such information as HUD requires, including at a minimum:

- (1) A report showing how the Continuum of Care program funds received in the preceding year were expended;
 - (2) A specific plan for how grant funds will be expended; and
 - (3) Information establishing that the Continuum of Care meets the standards for HPCs.
- (c) **Standards for qualifying as an HPC.** To qualify as an HPC, a Continuum must demonstrate through:
- (1) Reliable data generated by the Continuum of Care's HMIS that it meets all of the following standards:
 - (i) **Mean length of homelessness.** Either the mean length of episode of homelessness within the Continuum's geographic area is fewer than 20 days, or the mean length of episodes of homelessness for individuals or families in similar circumstances was reduced by at least 10 percent from the preceding federal fiscal year.
 - (ii) **Reduced recidivism.** Of individuals and families who leave homelessness, less than 5 percent become homeless again at any time within the next 2 years; or the percentage of individuals and families in similar circumstances who become homeless again within 2 years after leaving homelessness was decreased by at least 20 percent from the preceding federal fiscal year.
 - (iii) **HMIS coverage.** The Continuum's HMIS must have a bed coverage rate of 80 percent and a service volume coverage rate of 80 percent as calculated in accordance with HUD's HMIS requirements.
 - (iv) **Serving families and youth.** With respect to Continuums that served homeless families and youth defined as homeless under other federal statutes in paragraph (3) of the definition of homeless in § 576.2:
 - (A) 95 percent of those families and youth did not become homeless again within a 2-year period following termination of assistance; or
 - (B) 85 percent of those families achieved independent living in permanent housing for at least 2 years following termination of assistance.
 - (2) Reliable data generated from sources other than the Continuum's HMIS that is provided in a narrative or other form prescribed by HUD that it meets both of the following standards:
 - (i) **Community action.** All the metropolitan cities and counties within the Continuum's geographic area have a comprehensive outreach plan, including specific steps for identifying homeless persons and referring them to appropriate housing and services in that geographic area.
 - (ii) **Renewing HPC status.** If the Continuum was designated an HPC in the previous federal fiscal year and used Continuum of Care grant funds for activities described under § 578.71, that such activities were effective at reducing the number of individuals and families who became homeless in that community.

§ 578.67 Publication of application.

HUD will publish the application to be designated an HPC through the HUD Web site, for public comment as to whether the Continuum seeking designation as an HPC meets the standards for being one.

§ 578.69 Cooperation among entities.

An HPC must cooperate with HUD in distributing information about its successful efforts to reduce homelessness.

§ 578.71 HPC-eligible activities.

In addition to using grant funds for the eligible costs described in subpart D of this part, recipients and subrecipients in Continuums of Care designated as HPCs may also use grant funds to provide housing relocation and stabilization services and short- and/or medium-term rental assistance to individuals and families at risk of homelessness as set forth in 24 CFR 576.103 and 24 CFR 576.104, if necessary to prevent the individual or family from becoming homeless. Activities must be carried out in accordance with the plan submitted in the application. When carrying out housing relocation and stabilization services and short- and/or medium-term rental assistance, the written standards set forth in § 578.7(a)(9)(v) and recordkeeping requirements of 24 CFR 576.500 apply.

Subpart F - Program Requirements

§ 578.73 Matching requirements.

- (a) **In general.** The recipient or subrecipient must match all grant funds, except for leasing funds, with no less than 25 percent of funds or in-kind contributions from other sources. For Continuum of Care geographic areas in which there is more than one grant agreement, the 25 percent match must be provided on a grant-by-grant basis. Recipients that are UFAs or are the sole recipient for their Continuum, may provide match on a Continuum-wide basis. Cash match must be used for the costs of activities that are eligible under subpart D of this part, except that HPCs may use such match for the costs of activities that are eligible under § 578.71.
- (b) **Cash sources.** Notwithstanding 2 CFR 200.306(b)(5), a recipient or subrecipient may use funds from any source, including any other federal sources (excluding Continuum of Care program funds), as well as State, local, and private sources, provided that funds from the source are not statutorily prohibited to be used as a match. The recipient must ensure that any funds used to satisfy the matching requirements of this section are eligible under the laws governing the funds in order to be used as matching funds for a grant awarded under this program.
- (c) **In-kind contributions.**
 - (1) The recipient or subrecipient may use the value of any real property, equipment, goods, or services contributed to the project as match, provided that if the recipient or subrecipient had to pay for them with grant funds, the costs would have been eligible under Subpart D, or, in the case of HPCs, eligible under § 578.71.
 - (2) The requirements of 2 CFR 200.306, with the exception of § 200.306(b)(5) apply.
 - (3) Before grant execution, services to be provided by a third party must be documented by a memorandum of understanding (MOU) between the recipient or subrecipient and the third party that will provide the services. Services provided by individuals must be valued at rates consistent with those ordinarily paid for similar work in the recipient's or subrecipient's organization. If the recipient or subrecipient does not have employees performing similar work, the rates must be consistent with those ordinarily paid by other employers for similar work in the same labor market.
 - (i) The MOU must establish the unconditional commitment, except for selection to receive a grant, by the third party to provide the services, the specific service to be provided, the profession of the persons providing the service, and the hourly cost of the service to be provided.
 - (ii) During the term of the grant, the recipient or subrecipient must keep and make available, for inspection, records documenting the service hours provided.

§ 578.75 General operations.

(a) *State and local requirements.*

- (1) Housing and facilities constructed or rehabilitated with assistance under this part must meet State or local building codes, and in the absence of State or local building codes, the International Residential Code or International Building Code (as applicable to the type of structure) of the International Code Council.
- (2) Services provided with assistance under this part must be provided in compliance with all applicable State and local requirements, including licensing requirements.

(b) *Housing quality standards.* Housing leased with Continuum of Care program funds, or for which rental assistance payments are made with Continuum of Care program funds, must meet the applicable housing quality standards (HQS) under 24 CFR 982.401 of this title, except that 24 CFR 982.401(j) applies only to housing occupied by program participants receiving tenant-based rental assistance. For housing rehabilitated with funds under this part, the lead-based paint requirements in 24 CFR part 35, subparts A, B, J, and R apply. For housing that receives project-based or sponsor-based rental assistance, 24 CFR part 35, subparts A, B, H, and R apply. For residential property for which funds under this part are used for acquisition, leasing, services, or operating costs, 24 CFR part 35, subparts A, B, K, and R apply.

- (1) Before any assistance will be provided on behalf of a program participant, the recipient, or subrecipient, must physically inspect each unit to assure that the unit meets HQS. Assistance will not be provided for units that fail to meet HQS, unless the owner corrects any deficiencies within 30 days from the date of the initial inspection and the recipient or subrecipient verifies that all deficiencies have been corrected.
- (2) Recipients or subrecipients must inspect all units at least annually during the grant period to ensure that the units continue to meet HQS.

(c) *Suitable dwelling size.* The dwelling unit must have at least one bedroom or living/sleeping room for each two persons.

- (1) Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.
- (2) If household composition changes during the term of assistance, recipients and subrecipients may relocate the household to a more appropriately sized unit. The household must still have access to appropriate supportive services.

(d) *Meals.* Each recipient and subrecipient of assistance under this part who provides supportive housing for homeless persons with disabilities must provide meals or meal preparation facilities for residents.

(e) *Ongoing assessment of supportive services.* To the extent practicable, each project must provide supportive services for residents of the project and homeless persons using the project, which may be designed by the recipient or participants. Each recipient and subrecipient of assistance under this part must conduct an ongoing assessment of the supportive services needed by the residents of the project, the availability of such services, and the coordination of services needed to ensure long-term housing stability and must make adjustments, as appropriate.

- (f) **Residential supervision.** Each recipient and subrecipient of assistance under this part must provide residential supervision as necessary to facilitate the adequate provision of supportive services to the residents of the housing throughout the term of the commitment to operate supportive housing. Residential supervision may include the employment of a full- or part-time residential supervisor with sufficient knowledge to provide or to supervise the provision of supportive services to the residents.
- (g) **Participation of homeless individuals.**
 - (1) Each recipient and subrecipient must provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policymaking entity of the recipient or subrecipient, to the extent that such entity considers and makes policies and decisions regarding any project, supportive services, or assistance provided under this part. This requirement is waived if a recipient or subrecipient is unable to meet such requirement and obtains HUD approval for a plan to otherwise consult with homeless or formerly homeless persons when considering and making policies and decisions.
 - (2) Each recipient and subrecipient of assistance under this part must, to the maximum extent practicable, involve homeless individuals and families through employment; volunteer services; or otherwise in constructing, rehabilitating, maintaining, and operating the project, and in providing supportive services for the project.
- (h) **Supportive service agreement.** Recipients and subrecipients may require the program participants to take part in supportive services that are not disability-related services provided through the project as a condition of continued participation in the program. Examples of disability-related services include, but are not limited to, mental health services, outpatient health services, and provision of medication, which are provided to a person with a disability to address a condition caused by the disability. Notwithstanding this provision, if the purpose of the project is to provide substance abuse treatment services, recipients and subrecipients may require program participants to take part in such services as a condition of continued participation in the program.
- (i) **Retention of assistance after death, incarceration, or institutionalization for more than 90 days of qualifying member.** For permanent supportive housing projects surviving, members of any household who were living in a unit assisted under this part at the time of the qualifying member's death, long-term incarceration, or long-term institutionalization, have the right to rental assistance under this section until the expiration of the lease in effect at the time of the qualifying member's death, long-term incarceration, or long-term institutionalization.
- (j) **Remaining program participants following bifurcation of a lease or eviction as a result of domestic violence.** For permanent supportive housing projects, members of any household who were living in a unit assisted under this part at the time of a qualifying member's eviction from the unit because the qualifying member was found to have engaged in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking, have the right to rental assistance under this section until the expiration of the lease in effect at the time of the qualifying member's eviction.

[77 FR 45442, July 31, 2012, as amended at 81 FR 80810, Nov. 16, 2016]

§ 578.77 Calculating occupancy charges and rent.

- (a) **Occupancy agreements and leases.** Recipients and subrecipients must have signed occupancy agreements or leases (or subleases) with program participants residing in housing.

- (b) **Calculation of occupancy charges.** Recipients and subrecipients are not required to impose occupancy charges on program participants as a condition of residing in the housing. However, if occupancy charges are imposed, they may not exceed the highest of:
- (1) 30 percent of the family's monthly adjusted income (adjustment factors include the number of people in the family, age of family members, medical expenses, and child-care expenses);
 - (2) 10 percent of the family's monthly income; or
 - (3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments (adjusted in accordance with the family's actual housing costs) is specifically designated by the agency to meet the family's housing costs, the portion of the payments that is designated for housing costs.
 - (4) **Income.** Income must be calculated in accordance with 24 CFR 5.609 and 24 CFR 5.611(a). Recipients and subrecipients must examine a program participant's income initially, and if there is a change in family composition (e.g., birth of a child) or a decrease in the resident's income during the year, the resident may request an interim reexamination, and the occupancy charge will be adjusted accordingly.

(c) **Resident rent.**

(1) **Amount of rent.**

- (i) Each program participant on whose behalf rental assistance payments are made must pay a contribution toward rent in accordance with section 3(a)(1) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(a)(1)).
- (ii) Income of program participants must be calculated in accordance with 24 CFR 5.609 and 24 CFR 5.611(a).

- (2) **Review.** Recipients or subrecipients must examine a program participant's income initially, and at least annually thereafter, to determine the amount of the contribution toward rent payable by the program participant. Adjustments to a program participant's contribution toward the rental payment must be made as changes in income are identified.

- (3) **Verification.** As a condition of participation in the program, each program participant must agree to supply the information or documentation necessary to verify the program participant's income. Program participants must provide the recipient or subrecipient with information at any time regarding changes in income or other circumstances that may result in changes to a program participant's contribution toward the rental payment.

§ 578.79 Limitation on transitional housing.

A homeless individual or family may remain in transitional housing for a period longer than 24 months, if permanent housing for the individual or family has not been located or if the individual or family requires additional time to prepare for independent living. However, HUD may discontinue assistance for a transitional housing project if more than half of the homeless individuals or families remain in that project longer than 24 months.

§ 578.81 Term of commitment, repayment of grants, and prevention of undue benefits.

- (a) ***In general.*** All recipients and subrecipients receiving grant funds for acquisition, rehabilitation, or new construction must operate the housing or provide supportive services in accordance with this part, for at least 15 years from the date of initial occupancy or date of initial service provision. Recipient and subrecipients must execute and record a HUD-approved Declaration of Restrictive Covenants before receiving payment of grant funds.
- (b) ***Conversion.*** Recipients and subrecipients carrying out a project that provides transitional or permanent housing or supportive services in a structure may submit a request to HUD to convert a project for the direct benefit of very low-income persons. The request must be made while the project is operating as homeless housing or supportive services for homeless individuals and families, must be in writing, and must include an explanation of why the project is no longer needed to provide transitional or permanent housing or supportive services. The primary factor in HUD's decision on the proposed conversion is the unmet need for transitional or permanent housing or supportive services in the Continuum of Care's geographic area.
- (c) ***Repayment of grant funds.*** If a project is not operated as transitional or permanent housing for 10 years following the date of initial occupancy, HUD will require repayment of the entire amount of the grant used for acquisition, rehabilitation, or new construction, unless conversion of the project has been authorized under paragraph (b) of this section. If the housing is used for such purposes for more than 10 years, the payment amount will be reduced by 20 percentage points for each year, beyond the 10-year period in which the project is used for transitional or permanent housing.
- (d) ***Prevention of undue benefits.*** Except as provided under paragraph (e) of this section, upon any sale or other disposition of a project site that received grant funds for acquisition, rehabilitation, or new construction, occurring before the 15-year period, the recipient must comply with such terms and conditions as HUD may prescribe to prevent the recipient or subrecipient from unduly benefiting from such sale or disposition.
- (e) ***Exception.*** A recipient or subrecipient will not be required to comply with the terms and conditions prescribed under paragraphs (c) and (d) of this section if:
 - (1) The sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons;
 - (2) All the proceeds are used to provide transitional or permanent housing that meet the requirements of this part;
 - (3) Project-based rental assistance or operating cost assistance from any federal program or an equivalent State or local program is no longer made available and the project is meeting applicable performance standards, provided that the portion of the project that had benefitted from such assistance continues to meet the tenant income and rent restrictions for low-income units under section 42(g) of the Internal Revenue Code of 1986; or
 - (4) There are no individuals and families in the Continuum of Care geographic area who are homeless, in which case the project may serve individuals and families at risk of homelessness.

§ 578.83 Displacement, relocation, and acquisition.

- (a) **Minimizing displacement.** Consistent with the other goals and objectives of this part, recipients and subrecipients must ensure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of projects assisted under this part. "Project," as used in this section, means any activity or series of activities assisted with Continuum of Care funds received or anticipated in any phase of an undertaking.
- (b) **Temporary relocation.**
- (1) **Existing Building Not Assisted under Title IV of the McKinney-Vento Act.** No tenant may be required to relocate temporarily for a project if the building in which the project is being undertaken or will be undertaken is not currently assisted under Title IV of the McKinney-Vento Act. The absence of such assistance to the building means the tenants are not homeless and the tenants are therefore not eligible to receive assistance under the Continuum of Care program. When a tenant moves for such a project under conditions that cause the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), 42 U.S.C. 4601-4655, to apply, the tenant must be treated as permanently displaced and offered relocation assistance and payments consistent with paragraph (c) of this section.
- (2) **Existing Transitional Housing or Permanent Housing Projects Assisted Under Title IV of the McKinney-Vento Act.** Consistent with paragraph (c)(2)(ii) of this section, no program participant may be required to relocate temporarily for a project if the person cannot be offered a decent, safe, and sanitary unit in the same building or complex upon project completion under reasonable terms and conditions. The length of occupancy requirements in § 578.79 may prevent a program participant from returning to the property upon completion (See paragraph (c)(2)(iii)(D) of this section). Any program participant who has been temporarily relocated for a period beyond one year must be treated as permanently displaced and offered relocation assistance and payments consistent with paragraph (c) of this section. Program participants temporarily relocated in accordance with the policies described in this paragraph must be provided:
- (i) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/occupancy charges and utility costs; and
- (ii) Appropriate advisory services, including reasonable advance written notice of:
- (A) The date and approximate duration of the temporary relocation;
- (B) The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;
- (C) The reasonable terms and conditions under which the program participant will be able to occupy a suitable, decent, safe, and sanitary dwelling in the building or complex upon completion of the project; and
- (D) The provisions of paragraph (b)(2)(i) of this section.
- (c) **Relocation assistance for displaced persons.**
- (1) **In general.** A displaced person (defined in paragraph (c)(2) of this section) must be provided relocation assistance in accordance with the requirements of the URA and implementing regulations at 49 CFR part 24. A displaced person must be advised of his or her rights under the Fair Housing Act. Whenever possible, minority persons must be given reasonable opportunities to relocate to

decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require providing a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling. See 49 CFR 24.205(c)(2)(ii)(D).

(2) Displaced person.

- (i) For the purposes of paragraph (c) of this section, the term “displaced person” means any person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project. This includes any permanent, involuntary move for a project, including any permanent move from the real property that is made:
 - (A) After the owner (or person in control of the site) issues a notice to move permanently from the property, or refuses to renew an expiring lease, if the move occurs after the date of the submission by the recipient or subrecipient of an application for assistance to HUD (or the recipient, as applicable) that is later approved and funded and the recipient or subrecipient has site control as evidenced in accordance with § 578.25(b); or
 - (B) After the owner (or person in control of the site) issues a notice to move permanently from the property, or refuses to renew an expiring lease, if the move occurs after the date the recipient or subrecipient obtains site control, as evidenced in accordance with § 578.25(b), if that occurs after the application for assistance; or
 - (C) Before the date described under paragraph (c)(2)(i)(A) or (B) of this section, if the recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project; or
 - (D) By a tenant of a building that is not assisted under Title IV of the McKinney-Vento Act, if the tenant moves after execution of the agreement covering the acquisition, rehabilitation, or demolition of the property for the project; or
- (ii) For the purposes of paragraph (c) of this section, the term “displaced person” means any person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project. This includes any permanent, involuntary move for a project that is made by a program participant occupying transitional housing or permanent housing assisted under Title IV of the McKinney-Vento Act, if any one of the following three situations occurs:
 - (A) The program participant moves after execution of the agreement covering the acquisition, rehabilitation, or demolition of the property for the project and is either not eligible to return upon project completion or the move occurs before the program participant is provided written notice offering the program participant an opportunity to occupy a suitable, decent, safe, and sanitary dwelling in the same building or complex upon project completion under reasonable terms and conditions. Such reasonable terms and conditions must include a lease (or occupancy agreement, as applicable) consistent with Continuum of Care program requirements, including a monthly rent or occupancy charge and monthly utility costs that does not exceed the maximum amounts established in § 578.77; or
 - (B) The program participant is required to relocate temporarily, does not return to the building or complex, and any one of the following situations occurs:

- (1) The program participant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation;
 - (2) The program participant is not eligible to return to the building or complex upon project completion; or
 - (3) Other conditions of the temporary relocation are not reasonable; or
- (C) The program participant is required to move to another unit in the same building or complex, and any one of the following situations occurs:
- (1) The program participant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move;
 - (2) The program participant is not eligible to remain in the building or complex upon project completion; or
 - (3) Other conditions of the move are not reasonable.
- (iii) Notwithstanding the provisions of paragraph (c)(2)(i) or (ii) of this section, a person does not qualify as a “displaced person” if:
- (A) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement; the eviction complied with applicable federal, State, or local requirements (see § 578.91); and the recipient or subrecipient determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;
 - (B) The person moved into the property after the submission of the application but, before signing a lease or occupancy agreement and commencing occupancy, was provided written notice of the project’s possible impact on the person (e.g., the person may be displaced, temporarily relocated, or incur a rent increase) and the fact that the person would not qualify as a “displaced person” (or for any relocation assistance provided under this section), as a result of the project;
 - (C) The person is ineligible under 49 CFR 24.2(a)(9)(ii);
 - (D) The person is a program participant occupying transitional housing or permanent housing assisted under Title IV of the Act who must move as a direct result of the length-of-occupancy restriction under § 578.79; or
 - (E) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.
- (iv) The recipient may request, at any time, HUD’s determination of whether a displacement is or would be covered under this section.
- (3) **Initiation of negotiations.** For purposes of determining the formula for computing replacement housing payment assistance to be provided to a displaced person pursuant to this section, if the displacement is a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, “initiation of negotiations” means the execution of the agreement between the recipient and the subrecipient, or between the recipient (or subrecipient, as applicable) and the

person owning or controlling the property. In the case of an option contract to acquire property, the initiation of negotiations does not become effective until execution of a written agreement that creates a legally enforceable commitment to proceed with the purchase, such as a purchase agreement.

- (d) **Real property acquisition requirements.** Except for acquisitions described in 49 CFR 24.101(b)(1) through (5), the URA and the requirements of 49 CFR part 24, subpart B apply to any acquisition of real property for a project where there are Continuum of Care funds in any part of the project costs.
- (e) **Appeals.** A person who disagrees with the recipient's (or subrecipient's, if applicable) determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the recipient (see 49 CFR 24.10). A low-income person who is dissatisfied with the recipient's determination on his or her appeal may submit a written request for review of that determination to the local HUD field office.

§ 578.85 Timeliness standards.

- (a) **In general.** Recipients must initiate approved activities and projects promptly.
- (b) **Construction activities.** Recipients of funds for rehabilitation or new construction must meet the following standards:
 - (1) Construction activities must begin within 9 months of the later of signing of the grant agreement or of signing an addendum to the grant agreement authorizing use of grant funds for the project.
 - (2) Construction activities must be completed within 24 months of signing the grant agreement.
 - (3) Activities that cannot begin until after construction activities are completed must begin within 3 months of the date that construction activities are completed.
- (c) **Distribution.** A recipient that receives funds through this part must:
 - (1) Distribute the funds to subrecipients (in advance of expenditures by the subrecipients);
 - (2) Distribute the appropriate portion of the funds to a subrecipient no later than 45 days after receiving an approvable request for such distribution from the subrecipient; and
 - (3) Draw down funds at least once per quarter of the program year, after eligible activities commence.

§ 578.87 Limitation on use of funds.

- (a) **Maintenance of effort.** No assistance provided under this part (or any State or local government funds used to supplement this assistance) may be used to replace State or local funds previously used, or designated for use, to assist homeless persons.
- (b) **Equal participation of faith-based organizations.** The HUD program requirements in § 5.109 apply to the Continuum of Care program, including the requirements regarding disposition and change in use of real property by a faith-based organization.
- (c) **Restriction on combining funds.** In a single structure or housing unit, the following types of assistance may not be combined:
 - (1) Leasing and acquisition, rehabilitation, or new construction;
 - (2) Tenant-based rental assistance and acquisition, rehabilitation, or new construction;
 - (3) Short- or medium-term rental assistance and acquisition, rehabilitation, or new construction;

(4) Rental assistance and leasing; or

(5) Rental assistance and operating.

(d) **Program fees.** Recipients and subrecipients may not charge program participants program fees.

[77 FR 45442, July 31, 2012, as amended at 80 FR 75804, Dec. 4, 2015; 80 FR 75940, Dec. 7, 2015; 81 FR 19418, Apr. 4, 2016]

§ 578.89 Limitation on use of grant funds to serve persons defined as homeless under other federal laws.

(a) **Application requirement.** Applicants that intend to serve unaccompanied youth and families with children and youth defined as homeless under other federal laws in paragraph (3) of the homeless definition in § 576.2 must demonstrate in their application, to HUD's satisfaction, that the use of grant funds to serve such persons is an equal or greater priority than serving persons defined as homeless under paragraphs (1), (2), and (4) of the definition of homeless in § 576.2. To demonstrate that it is of equal or greater priority, applicants must show that it is equally or more cost effective in meeting the overall goals and objectives of the plan submitted under section 427(b)(1)(B) of the Act, especially with respect to children and unaccompanied youth.

(b) **Limit.** No more than 10 percent of the funds awarded to recipients within a single Continuum of Care's geographic area may be used to serve such persons.

(c) **Exception.** The 10 percent limitation does not apply to Continuums in which the rate of homelessness, as calculated in the most recent point-in-time count, is less than one-tenth of one percent of the total population.

§ 578.91 Termination of assistance to program participants.

(a) **Termination of assistance.** The recipient or subrecipient may terminate assistance to a program participant who violates program requirements or conditions of occupancy. Termination under this section does not bar the recipient or subrecipient from providing further assistance at a later date to the same individual or family.

(b) **Due process.** In terminating assistance to a program participant, the recipient or subrecipient must provide a formal process that recognizes the rights of individuals receiving assistance under the due process of law. This process, at a minimum, must consist of:

(1) Providing the program participant with a written copy of the program rules and the termination process before the participant begins to receive assistance;

(2) Written notice to the program participant containing a clear statement of the reasons for termination;

(3) A review of the decision, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and

(4) Prompt written notice of the final decision to the program participant.

(c) **Hard-to-house populations.** Recipients and subrecipients that are providing permanent supportive housing for hard-to-house populations of homeless persons must exercise judgment and examine all extenuating circumstances in determining when violations are serious enough to warrant termination so that a program participant's assistance is terminated only in the most severe cases.

§ 578.93 Fair Housing and Equal Opportunity.

- (a) ***Nondiscrimination and equal opportunity requirements.*** The nondiscrimination and equal opportunity requirements set forth in 24 CFR 5.105(a) are applicable.
- (b) ***Housing for specific subpopulations.*** Recipients and subrecipients may exclusively serve a particular homeless subpopulation in transitional or permanent housing if the housing addresses a need identified by the Continuum of Care for the geographic area and meets one of the following:
 - (1) The housing may be limited to one sex where such housing consists of a single structure with shared bedrooms or bathing facilities such that the considerations of personal privacy and the physical limitations of the configuration of the housing make it appropriate for the housing to be limited to one sex;
 - (2) The housing may be limited to a specific subpopulation, so long as admission does not discriminate against any protected class under federal nondiscrimination laws in 24 CFR 5.105 (e.g., the housing may be limited to homeless veterans, victims of domestic violence and their children, or chronically homeless persons and families).
 - (3) The housing may be limited to families with children.
 - (4) If the housing has in residence at least one family with a child under the age of 18, the housing may exclude registered sex offenders and persons with a criminal record that includes a violent crime from the project so long as the child resides in the housing.
 - (5) Sober housing may exclude persons who refuse to sign an occupancy agreement or lease that prohibits program participants from possessing, using, or being under the influence of illegal substances and/or alcohol on the premises.
 - (6) If the housing is assisted with funds under a federal program that is limited by federal statute or Executive Order to a specific subpopulation, the housing may be limited to that subpopulation (e.g., housing also assisted with funding from the Housing Opportunities for Persons with AIDS program under 24 CFR part 574 may be limited to persons with acquired immunodeficiency syndrome or related diseases).
 - (7) Recipients may limit admission to or provide a preference for the housing to subpopulations of homeless persons and families who need the specialized supportive services that are provided in the housing (e.g., substance abuse addiction treatment, domestic violence services, or a high intensity package designed to meet the needs of hard-to-reach homeless persons). While the housing may offer services for a particular type of disability, no otherwise eligible individuals with disabilities or families including an individual with a disability, who may benefit from the services provided may be excluded on the grounds that they do not have a particular disability.
- (c) ***Affirmatively furthering fair housing.*** A recipient must implement its programs in a manner that affirmatively furthers fair housing, which means that the recipient must:
 - (1) Affirmatively market their housing and supportive services to eligible persons regardless of race, color, national origin, religion, sex, age, familial status, or handicap who are least likely to apply in the absence of special outreach, and maintain records of those marketing activities;
 - (2) Where a recipient encounters a condition or action that impedes fair housing choice for current or prospective program participants, provide such information to the jurisdiction that provided the certification of consistency with the Consolidated Plan; and

- (3) Provide program participants with information on rights and remedies available under applicable federal, State and local fair housing and civil rights laws.
- (d) **Accessibility and integrative housing and services for persons with disabilities.** Recipients and subrecipients must comply with the accessibility requirements of the Fair Housing Act (24 CFR part 100), Section 504 of the Rehabilitation Act of 1973 (24 CFR part 8), and Titles II and III of the Americans with Disabilities Act, as applicable (28 CFR parts 35 and 36). In accordance with the requirements of 24 CFR 8.4(d), recipients must ensure that their program's housing and supportive services are provided in the most integrated setting appropriate to the needs of persons with disabilities.
- (e) **Prohibition against involuntary family separation.** The age and gender of a child under age 18 must not be used as a basis for denying any family's admission to a project that receives funds under this part.

§ 578.95 Conflicts of interest.

- (a) **Procurement.** For the procurement of property (goods, supplies, or equipment) and services, the recipient and its subrecipients must comply with the standards of conduct and conflict-of-interest requirements under 2 CFR 200.317 and 200.318.
- (b) **Continuum of Care board members.** No Continuum of Care board member may participate in or influence discussions or resulting decisions concerning the award of a grant or other financial benefits to the organization that the member represents.
- (c) **Organizational conflict.** An organizational conflict of interest arises when, because of activities or relationships with other persons or organizations, the recipient or subrecipient is unable or potentially unable to render impartial assistance in the provision of any type or amount of assistance under this part, or when a covered person's, as in paragraph (d)(1) of this section, objectivity in performing work with respect to any activity assisted under this part is or might be otherwise impaired. Such an organizational conflict would arise when a board member of an applicant participates in decision of the applicant concerning the award of a grant, or provision of other financial benefits, to the organization that such member represents. It would also arise when an employee of a recipient or subrecipient participates in making rent reasonableness determinations under § 578.49(b)(2) and § 578.51(g) and housing quality inspections of property under § 578.75(b) that the recipient, subrecipient, or related entity owns.
- (d) **Other conflicts.** For all other transactions and activities, the following restrictions apply:
 - (1) No covered person, meaning a person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient or its subrecipients and who exercises or has exercised any functions or responsibilities with respect to activities assisted under this part, or who is in a position to participate in a decision-making process or gain inside information with regard to activities assisted under this part, may obtain a financial interest or benefit from an assisted activity, have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity, or have a financial interest in the proceeds derived from an assisted activity, either for him or herself or for those with whom he or she has immediate family or business ties, during his or her tenure or during the one-year period following his or her tenure.
 - (2) **Exceptions.** Upon the written request of the recipient, HUD may grant an exception to the provisions of this section on a case-by-case basis, taking into account the cumulative effects of the criteria in paragraph (d)(2)(ii) of this section, provided that the recipient has satisfactorily met the threshold requirements of paragraph (d)(2)(ii) of this section.
 - (i) **Threshold requirements.** HUD will consider an exception only after the recipient has provided the following documentation:

- (A) Disclosure of the nature of the conflict, accompanied by a written assurance, if the recipient is a government, that there has been public disclosure of the conflict and a description of how the public disclosure was made; and if the recipient is a private nonprofit organization, that the conflict has been disclosed in accordance with their written code of conduct or other conflict-of-interest policy; and
 - (B) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law, or if the subrecipient is a private nonprofit organization, the exception would not violate the organization's internal policies.
- (ii) **Factors to be considered for exceptions.** In determining whether to grant a requested exception after the recipient has satisfactorily met the threshold requirements under paragraph (c)(3)(i) of this section, HUD must conclude that the exception will serve to further the purposes of the Continuum of Care program and the effective and efficient administration of the recipient's or subrecipient's project, taking into account the cumulative effect of the following factors, as applicable:
- (A) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
 - (B) Whether an opportunity was provided for open competitive bidding or negotiation;
 - (C) Whether the affected person has withdrawn from his or her functions, responsibilities, or the decision-making process with respect to the specific activity in question;
 - (D) Whether the interest or benefit was present before the affected person was in the position described in paragraph (c)(1) of this section;
 - (E) Whether undue hardship will result to the recipient, the subrecipient, or the person affected, when weighed against the public interest served by avoiding the prohibited conflict;
 - (F) Whether the person affected is a member of a group or class of persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class; and
 - (G) Any other relevant considerations.

[77 FR 45442, July 31, 2012, as amended at 80 FR 75940, Dec. 7, 2015]

§ 578.97 Program income.

- (a) **Defined.** Program income is the income received by the recipient or subrecipient directly generated by a grant-supported activity.
- (b) **Use.** Program income earned during the grant term shall be retained by the recipient, and added to funds committed to the project by HUD and the recipient, used for eligible activities in accordance with the requirements of this part. Costs incident to the generation of program income may be deducted from gross income to calculate program income, provided that the costs have not been charged to grant funds.

- (c) **Rent and occupancy charges.** Rents and occupancy charges collected from program participants are program income. In addition, rents and occupancy charges collected from residents of transitional housing may be reserved, in whole or in part, to assist the residents from whom they are collected to move to permanent housing.

§ 578.99 Applicability of other Federal requirements.

In addition to the requirements set forth in 24 CFR part 5, use of assistance provided under this part must comply with the following federal requirements:

- (a) **Environmental review.** Activities under this part are subject to environmental review by HUD under 24 CFR part 50 as noted in § 578.31.
- (b) **Section 6002 of the Solid Waste Disposal Act.** State agencies and agencies of a political subdivision of a state that are using assistance under this part for procurement, and any person contracting with such an agency with respect to work performed under an assisted contract, must comply with the requirements of Section 6003 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. In accordance with Section 6002, these agencies and persons must:
 - (1) Procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000;
 - (2) Procure solid waste management services in a manner that maximizes energy and resource recovery; and
 - (3) Must have established an affirmative procurement program for the procurement of recovered materials identified in the EPA guidelines.
- (c) **Transparency Act Reporting.** Section 872 of the Duncan Hunter Defense Appropriations Act of 2009, and additional requirements published by the Office of Management and Budget (OMB), requires recipients to report subawards made either as pass-through awards, subrecipient awards, or vendor awards in the Federal Government Web site www.fsrs.gov or its successor system. The reporting of award and subaward information is in accordance with the requirements of the Federal Financial Assistance Accountability and Transparency Act of 2006, as amended by section 6202 of Public Law 110-252 and in OMB Policy Guidance issued to the federal agencies on September 14, 2010 (75 FR 55669).
- (d) **The Coastal Barrier Resources Act of 1982** (16 U.S.C. 3501 et seq.) may apply to proposals under this part, depending on the assistance requested.
- (e) **Applicability of uniform administrative requirements, cost principles, and audit requirements for Federal awards.** The requirements of 2 CFR part 200 apply to recipients and subrecipients, except where inconsistent with the provisions of the McKinney-Vento Act or this part.
- (f) **Lead-based paint.** The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, J, K, M, and R apply to activities under this program.
- (g) **Audit.** Recipients and subrecipients must comply with the audit requirements of 2 CFR part 200, subpart F.
- (h) **Davis-Bacon Act.** The provisions of the Davis-Bacon Act do not apply to this program.

- (i) **Section 3 of the Housing and Urban Development Act.** Recipients and subrecipients must, as applicable, comply with Section 3 of the Housing and Urban Development Act of 1968 and its implementing regulations at 24 CFR part 75, as applicable.
- (j) **Protections for victims of domestic violence, dating violence, sexual assault, or stalking -**
 - (1) **General.** The requirements set forth in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), implementing the requirements of VAWA apply to all permanent housing and transitional housing for which Continuum of Care program funds are used for acquisition, rehabilitation, new construction, leasing, rental assistance, or operating costs. The requirements also apply where funds are used for homelessness prevention, but only where the funds are used to provide short- and/or medium-term rental assistance. Safe havens are subject only to the requirements in paragraph (j)(9) of this section.
 - (2) **Definition of covered housing provider.** For the Continuum of Care program, “covered housing provider,” as such term is used in HUD’s regulations in 24 CFR part 5, subpart L refers to:
 - (i) The owner or landlord, which may be the recipient or subrecipient, for purposes of 24 CFR 5.2005(d)(1) and 5.2009(a);
 - (ii) The recipient, subrecipient, and owner or landlord for purposes of 24 CFR 5.2005(d)(2) through (d)(4); and
 - (iii) The recipient, subrecipient, and owner or landlord for purposes of 24 CFR 5.2007. However, the recipient or subrecipient may limit documentation requests under § 5.2007 to only the recipient or subrecipient, provided that:
 - (A) This limitation is made clear in both the notice described under 24 CFR 5.2005(a)(1) and the rental assistance agreement;
 - (B) The entity designated to receive documentation requests determines whether the program participant is entitled to protection under VAWA and immediately advise the program participant of the determination; and
 - (C) If the program participant is entitled to protection, the entity designated to receive documentation requests must notify the owner in writing that the program participant is entitled to protection under VAWA and work with the owner on the program participant’s behalf. Any further sharing or disclosure of the program participant’s information will be subject to the requirements in 24 CFR 5.2007.
 - (3) **Effective date.** The core statutory protections of VAWA that prohibit denial or termination of assistance or eviction solely because an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking, applied upon enactment of VAWA 2013 on March 7, 2013. Compliance with the VAWA regulatory requirements under this section and at 24 CFR part 5, subpart L, is required for grants awarded pursuant to NOFAs published on or after December 16, 2016.
 - (4) **Notification requirements.**
 - (i) The recipient or subrecipient must provide each individual or family applying for permanent housing and transitional housing and each program participant the notice and the certification form described in 24 CFR 5.2005 at each of the following times:
 - (A) When an individual or family is denied permanent housing or transitional housing;
 - (B) When a program participant is admitted to permanent housing or transitional housing;

- (C) When a program participant receives notification of eviction; and
 - (D) When a program participant is notified of termination of assistance.
- (ii) When grant funds are used for rental assistance, the recipient or subrecipient must ensure that the owner or manager of the housing provides the notice and certification form described in 24 CFR 5.2005(a) to the program participant with any notification of eviction. This commitment and the confidentiality requirements under 24 CFR 5.2007(c) must be set forth in a contract with the owner or landlord.
- (5) ***Contract, lease, and occupancy agreement provisions.***
- (i) Recipients and subrecipients must include in any contracts and leases between the recipient or subrecipient, and an owner or landlord of the housing:
 - (A) The requirement to comply with 24 CFR part 5, subpart L; and
 - (B) Where the owner or landlord of the housing will have a lease with a program participant, the requirement to include a lease provision that include all requirements that apply to tenants, the owner or the lease under 24 CFR part 5, subpart L, as supplemented by this part, including the prohibited bases for eviction and restrictions on construing lease terms under 24 CFR 5.2005(b) and (c).
 - (ii) The recipient or subrecipient must include in any lease, sublease, and occupancy agreement with the program participant a provision that include all requirements that apply to tenants, the owner or the lease under 24 CFR part 5, subpart L, as supplemented by this part, including the prohibited bases for eviction and restrictions on construing lease terms under 24 CFR 5.2005(b) and (c). The lease, sublease, and occupancy agreement may specify that the protections under 24 CFR part 5, subpart L, apply only during the period of assistance under the Continuum of Care Program. The period of assistance for housing where grant funds were used for acquisition, construction, or rehabilitation is 15 years from the date of initial occupancy or date of initial service provision.
 - (iii) Except for tenant-based rental assistance, recipients and subrecipients must require that any lease, sublease, or occupancy agreement with a program participant permits the program participant to terminate the lease, sublease, or occupancy agreement without penalty if the recipient or subrecipient determines that the program participant qualifies for an emergency transfer under the emergency transfer plan established under paragraph (j)(8) of this section.
 - (iv) For tenant-based rental assistance, the recipient or subrecipient must enter into a contract with the owner or landlord of the housing that:
 - (A) Requires the owner or landlord of the housing to comply with the provisions of 24 CFR part 5, subpart L; and
 - (B) Requires the owner or landlord of the housing to include a lease provision that include all requirements that apply to tenants, the owner or the lease under 24 CFR part 5, subpart L, as supplemented by this part, including the prohibited bases for eviction and restrictions on construing lease terms under 24 CFR 5.005(b) and (c). The lease may specify that the protections under 24 CFR part 5, subpart L, only apply while the program participant receives tenant-based rental assistance under the Continuum of Care Program.
- (6) ***Transition.***

- (i) The recipient or subrecipient must ensure that the requirements set forth in paragraph (j)(5) of this section apply to any contracts, leases, subleases, or occupancy agreements entered into, or renewed, following the expiration of an existing term, on or after the effective date in paragraph (j)(2) of this section. This obligation includes any contracts, leases, subleases, and occupancy agreements that will automatically renew on or after the effective date in paragraph (j)(3) of this section.
 - (ii) For leases for tenant-based rental assistance existing prior to the effective date in paragraph (j)(2) of this section, recipients and subrecipients must enter into a contract under paragraph (j)(6)(iv) of this section before the next renewal of the lease.
- (7) **Bifurcation.** For the purposes of this part, the following requirements shall apply in place of the requirements at 24 CFR 5.2009(b):
- (i) If a family who is receiving tenant-based rental assistance under this part separates under 24 CFR 5.2009(a), the family's tenant-based rental assistance and any utility assistance shall continue for the family member(s) who are not evicted or removed.
 - (ii) If a family living in permanent supportive housing separates under 24 CFR 5.2009(a), and the family's eligibility for the housing was based on the evicted individual's disability or chronically homeless status, the remaining tenants may stay in the project as provided under § 578.75(i)(2). Otherwise, if a family living in a project funded under this part separates under 24 CFR 5.2009(a), the remaining tenant(s) will be eligible to remain in the project.
- (8) **Emergency transfer plan.** The Continuum of Care must develop an emergency transfer plan for the Continuum of Care, and recipients and subrecipients in the Continuum of Care must follow that plan. The plan must comply with 24 CFR 5.2005(e) and include the following program requirements:
- (i) For families receiving tenant-based rental assistance, the plan must specify what will happen with respect to the non-transferring family member(s), if the family separates in order to effect an emergency transfer.
 - (ii) For families living in units that are otherwise assisted under this part (assisted units), the required policies must provide that for program participants who qualify for an emergency transfer but a safe unit is not immediately available for an internal emergency transfer, the individual or family shall have priority over all other applicants for rental assistance, transitional housing, and permanent supportive housing projects funded under this part, provided that: The individual or family meets all eligibility criteria required by Federal law or regulation or HUD NOFA; and the individual or family meets any additional criteria or preferences established in accordance with § 578.93(b)(1), (4), (6), or (7). The individual or family shall not be required to meet any other eligibility criteria or preferences for the project. The individual or family shall retain their original homeless or chronically homeless status for the purposes of the transfer.
- (9) **Protections with respect to safe havens.** The following requirements apply to safe havens funded under this part:
- (i) No individual may be denied admission to or removed from the safe haven on the basis or as a direct result of the fact that the individual is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the individual otherwise qualifies for admission or occupancy.
 - (iii) The terms "affiliated individual," "dating violence," "domestic violence," "sexual assault," and "stalking" are defined in 24 CFR 5.2003.

[77 FR 45442, July 31, 2012, as amended at 80 FR 75940, Dec. 7, 2015; 81 FR 80810, Nov. 16, 2016; 81 FR 87812, Dec. 6, 2016; 85 FR 61568, Sept. 29, 2020]

Subpart G - Grant Administration

§ 578.101 Technical assistance.

- (a) **Purpose.** The purpose of Continuum of Care technical assistance is to increase the effectiveness with which Continuums of Care, eligible applicants, recipients, subrecipients, and UFAs implement and administer their Continuum of Care planning process; improve their capacity to prepare applications; prevent the separation of families in projects funded under the Emergency Solutions Grants, Continuum of Care, and Rural Housing Stability Assistance programs; and adopt and provide best practices in housing and services for persons experiencing homelessness.
- (b) **Defined.** Technical assistance means the transfer of skills and knowledge to entities that may need, but do not possess, such skills and knowledge. The assistance may include, but is not limited to, written information such as papers, manuals, guides, and brochures; person-to-person exchanges; web-based curriculums, training and Webinars, and their costs.
- (c) **Set-aside.** HUD may set aside funds annually to provide technical assistance, either directly by HUD staff or indirectly through third-party providers.
- (d) **Awards.** From time to time, as HUD determines the need, HUD may advertise and competitively select providers to deliver technical assistance. HUD may enter into contracts, grants, or cooperative agreements, when necessary, to implement the technical assistance. HUD may also enter into agreements with other federal agencies for awarding the technical assistance funds.

§ 578.103 Recordkeeping requirements.

- (a) **In general.** The recipient and its subrecipients must establish and maintain standard operating procedures for ensuring that Continuum of Care program funds are used in accordance with the requirements of this part and must establish and maintain sufficient records to enable HUD to determine whether the recipient and its subrecipients are meeting the requirements of this part, including:
 - (1) **Continuum of Care records.** Each collaborative applicant must keep the following documentation related to establishing and operating a Continuum of Care:
 - (i) Evidence that the Board selected by the Continuum of Care meets the requirements of § 578.5(b);
 - (ii) Evidence that the Continuum has been established and operated as set forth in subpart B of this part, including published agendas and meeting minutes, an approved Governance Charter that is reviewed and updated annually, a written process for selecting a board that is reviewed and updated at least once every 5 years, evidence required for designating a single HMIS for the Continuum, and monitoring reports of recipients and subrecipients;
 - (iii) Evidence that the Continuum has prepared the application for funds as set forth in § 578.9, including the designation of the eligible applicant to be the collaborative applicant.
 - (2) **Unified funding agency records.** UFAs that requested grant amendments from HUD, as set forth in § 578.105, must keep evidence that the grant amendment was approved by the Continuum. This evidence may include minutes of meetings at which the grant amendment was discussed and approved.

- (3) **Homeless status.** Acceptable evidence of the homeless as status is set forth in 24 CFR 576.500(b).
- (4) **Chronically homeless status.** The recipient must maintain and follow written intake procedures to ensure compliance with the chronically homeless definition in § 578.3. The procedures must require documentation at intake of the evidence relied upon to establish and verify chronically homeless status. The procedures must establish the order of priority for obtaining evidence as third-party documentation first, intake worker observations second, and certification from the person seeking assistance third. Records contained in an HMIS, or comparable database used by victim service or legal service providers, are acceptable evidence of third-party documentation and intake worker observations if the HMIS, or comparable database, retains an auditable history of all entries, including the person who entered the data, the date of entry, and the change made, and if the HMIS prevents overrides or changes of the dates on which entries are made.
 - (i) For paragraph (1) of the “Chronically homeless” definition in § 578.3, evidence that the individual is a “homeless individual with a disability” as defined in section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)) must include:
 - (A) Evidence of homeless status as set forth in paragraph (a)(3) of this section; and
 - (B) Evidence of a disability. In addition to the documentation required under paragraph (a)(4)(i)(A) of this section, the procedures must require documentation at intake of the evidence relied upon to establish and verify the disability of the person applying for homeless assistance. The recipient must keep these records for 5 years after the end of the grant term. Acceptable evidence of the disability includes:
 - (1) Written verification of the disability from a professional licensed by the state to diagnose and treat the disability and his or her certification that the disability is expected to be long-continuing or of indefinite duration and substantially impedes the individual's ability to live independently;
 - (2) Written verification from the Social Security Administration;
 - (3) The receipt of a disability check (e.g., Social Security Disability Insurance check or Veteran Disability Compensation);
 - (4) Intake staff-recorded observation of disability that, no later than 45 days from the application for assistance, is confirmed and accompanied by evidence in paragraph (a)(4)(i)(B)(1), (2), (3), or (5) of this section; or
 - (5) Other documentation approved by HUD.
 - (ii) For paragraph (1)(i) of the “Chronically homeless” definition in § 578.3, evidence that the individual lives in a place not meant for human habitation, a safe haven, or an emergency shelter, which includes:
 - (A) An HMIS record or record from a comparable database;
 - (B) A written observation by an outreach worker of the conditions where the individual was living;
 - (C) A written referral by another housing or service provider; or

- (D) Where evidence in paragraphs (a)(4)(ii)(A) through (C) of this section cannot be obtained, a certification by the individual seeking assistance, which must be accompanied by the intake worker's documentation of the living situation of the individual or family seeking assistance and the steps taken to obtain evidence in paragraphs (a)(4)(ii)(A) through (C).
- (iii) For paragraph (1)(ii) of the "Chronically homeless" definition in § 578.3, evidence must include a combination of the evidence described in paragraphs (a)(4)(ii)(A) through (D) of this section, subject to the following conditions:
 - (A) Third-party documentation of a single encounter with a homeless service provider on a single day within 1 month is sufficient to consider an individual as homeless and living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter for the entire calendar month (e.g., an encounter on May 5, 2015, counts for May 1 - May 31, 2015), unless there is evidence that there have been at least 7 consecutive nights not living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter during that month (e.g., evidence in HMIS of a stay in transitional housing);
 - (B) Each break in homelessness of at least 7 consecutive nights not living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter between separate occasions must be documented with the evidence described in paragraphs (a)(4)(ii)(A) through (D) of this section;
 - (C) Evidence of stays in institutional care facilities fewer than 90 days included in the total of at least 12 months of living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter must include the evidence in paragraphs (a)(4)(iv)(A) through (B) of this section and evidence described in paragraphs (a)(4)(ii)(A) through (D) of this section that the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately prior to entering the institutional care facility; and
 - (D) For at least 75 percent of the chronically homeless individuals and families assisted by a recipient in a project during an operating year, no more than 3 months of living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter may be documented using the evidence in paragraph (a)(4)(ii)(D) of this section for each assisted chronically homeless individual or family. This limitation does not apply to documentation of breaks in homelessness between separate occasions, which may be documented entirely based on a self-report by the individual seeking assistance.
- (iv) If an individual qualifies as chronically homeless under paragraph (2) of the "Chronically homeless" definition in § 578.3 because he or she has been residing in an institutional care facility for fewer than 90 days and met all of the criteria in paragraph (1) of the definition, before entering that facility, evidence must include the following:
 - (A) Discharge paperwork or a written or oral referral from a social worker, case manager, or other appropriate official of the institutional care facility stating the beginning and end dates of the time residing in the institutional care facility. All oral statements must be recorded by the intake worker; or

- (B) Where the evidence in paragraph (a)(4)(iv)(A) of this section is not obtainable, a written record of the intake worker's due diligence in attempting to obtain the evidence described in paragraph (a)(4)(iv)(A) and a certification by the individual seeking assistance that states that he or she is exiting or has just exited an institutional care facility where he or she resided for fewer than 90 days; and
 - (C) Evidence as set forth in paragraphs (a)(4)(i) through (iii) of this section that the individual met the criteria in paragraph (1) of the definition for "Chronically homeless" in § 578.3, immediately prior to entry into the institutional care facility.
 - (v) If a family qualifies as chronically homeless under paragraph (3) of the "Chronically homeless" definition in § 578.3, evidence must include the evidence as set forth in paragraphs (a)(4)(i) through (iv) of this section that the adult head of household (or if there is no adult in the family, a minor head of household) met all of the criteria in paragraph (1) or (2) of the definition.
- (5) **At risk of homelessness status.** For those recipients and subrecipients that serve persons at risk of homelessness, the recipient or subrecipient must keep records that establish "at risk of homelessness" status of each individual or family who receives Continuum of Care homelessness prevention assistance. Acceptable evidence is found in 24 CFR 576.500(c).
- (6) **Moves for victims of domestic violence, dating violence, sexual assault, and stalking.**
- (i) For each program participant who moved to a different Continuum of Care due to imminent threat of further domestic violence, dating violence, sexual assault, or stalking under § 578.51(c)(3), each recipient or subrecipient of assistance under this part must retain:
 - (A) Documentation of the original incidence of domestic violence, dating violence, sexual assault, or stalking, only if the original violence is not already documented in the program participant's case file. This may be written observation of the housing or service provider; a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom the victim has sought assistance; medical or dental records; court records or law enforcement records; or written certification by the program participant to whom the violence occurred or by the head of household.
 - (B) Documentation of the reasonable belief of imminent threat of further domestic violence, dating violence, or sexual assault or stalking, which would include threats from a third-party, such as a friend or family member of the perpetrator of the violence. This may be written observation by the housing or service provider; a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom the victim has sought assistance; current restraining order; recent court order or other court records; law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts; or a written certification by the program participant to whom the violence occurred or the head of household.
 - (ii) Data on emergency transfers requested under 24 CFR 5.2005(e) and § 578.99, pertaining to victims of domestic violence, dating violence, sexual assault, or stalking, including data on the outcomes of such requests.

- (7) **Annual income.** For each program participant who receives housing assistance where rent or an occupancy charge is paid by the program participant, the recipient or subrecipient must keep the following documentation of annual income:
 - (i) Income evaluation form specified by HUD and completed by the recipient or subrecipient; and
 - (ii) Source documents (e.g., most recent wage statement, unemployment compensation statement, public benefits statement, bank statement) for the assets held by the program participant and income received before the date of the evaluation;
 - (iii) To the extent that source documents are unobtainable, a written statement by the relevant third party (e.g., employer, government benefits administrator) or the written certification by the recipient's or subrecipient's intake staff of the oral verification by the relevant third party of the income the program participant received over the most recent period; or
 - (iv) To the extent that source documents and third-party verification are unobtainable, the written certification by the program participant of the amount of income that the program participant is reasonably expected to receive over the 3-month period following the evaluation.
- (8) **Program participant records.** In addition to evidence of "homeless" status or "at-risk-of-homelessness" status, as applicable, the recipient or subrecipient must keep records for each program participant that document:
 - (i) The services and assistance provided to that program participant, including evidence that the recipient or subrecipient has conducted an annual assessment of services for those program participants that remain in the program for more than a year and adjusted the service package accordingly, and including case management services as provided in § 578.37(a)(1)(ii)(F); and
 - (ii) Where applicable, compliance with the termination of assistance requirement in § 578.91.
- (9) **Housing standards.** The recipient or subrecipient must retain documentation of compliance with the housing standards in § 578.75(b), including inspection reports.
- (10) **Services provided.** The recipient or subrecipient must document the types of supportive services provided under the recipient's program and the amounts spent on those services. The recipient or subrecipient must keep record that these records were reviewed at least annually and that the service package offered to program participants was adjusted as necessary.
- (11) **Match.** The recipient must keep records of the source and use of contributions made to satisfy the match requirement in § 578.73. The records must indicate the grant and fiscal year for which each matching contribution is counted. The records must show how the value placed on third party in-kind contributions was derived. To the extent feasible, volunteer services must be supported by the same methods that the organization uses to support the allocation of regular personnel costs.
- (12) **Conflicts of interest.** The recipient and its subrecipients must keep records to show compliance with the organizational conflict-of-interest requirements in § 578.95(c), the Continuum of Care board conflict-of-interest requirements in § 578.95(b), the other conflict requirements in § 578.95(d), a copy of the personal conflict-of-interest policy developed and implemented to comply with the requirements in § 578.95, and records supporting exceptions to the personal conflict-of-interest prohibitions.
- (13) **Homeless participation.** The recipient or subrecipient must document its compliance with the homeless participation requirements under § 578.75(g).

- (14) **Faith-based activities.** The recipient and its subrecipients must document their compliance with the faith-based activities requirements under § 578.87(b).
 - (15) **Affirmatively Furthering Fair Housing.** Recipients and subrecipients must maintain copies of their marketing, outreach, and other materials used to inform eligible persons of the program to document compliance with the requirements in § 578.93(c).
 - (16) **Other federal requirements.** The recipient and its subrecipients must document their compliance with the federal requirements in § 578.99, as applicable.
 - (17) **Subrecipients and contractors.**
 - (i) The recipient must retain copies of all solicitations of and agreements with subrecipients, records of all payment requests by and dates of payments made to subrecipients, and documentation of all monitoring and sanctions of subrecipients, as applicable.
 - (ii) The recipient must retain documentation of monitoring subrecipients, including any monitoring findings and corrective actions required.
 - (iii) The recipient and its subrecipients must retain copies of all procurement contracts and documentation of compliance with the procurement requirements in 2 CFR part 200, subpart D.
 - (18) **Other records specified by HUD.** The recipient and subrecipients must keep other records specified by HUD.
- (b) **Confidentiality.** In addition to meeting the specific confidentiality and security requirements for HMIS data, the recipient and its subrecipients must develop and implement written procedures to ensure:
- (1) All records containing protected identifying information of any individual or family who applies for and/or receives Continuum of Care assistance will be kept secure and confidential;
 - (2) The address or location of any family violence project assisted with Continuum of Care funds will not be made public, except with written authorization of the person responsible for the operation of the project; and
 - (3) The address or location of any housing of a program participant will not be made public, except as provided under a preexisting privacy policy of the recipient or subrecipient and consistent with State and local laws regarding privacy and obligations of confidentiality;
- (c) **Period of record retention.** All records pertaining to Continuum of Care funds must be retained for the greater of 5 years or the period specified below. Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.
- (1) Documentation of each program participant's qualification as a family or individual at risk of homelessness or as a homeless family or individual and other program participant records must be retained for 5 years after the expenditure of all funds from the grant under which the program participant was served; and
 - (2) Where Continuum of Care funds are used for the acquisition, new construction, or rehabilitation of a project site, records must be retained until 15 years after the date that the project site is first occupied, or used, by program participants.
- (d) **Access to records.**

- (1) **Federal Government rights.** Notwithstanding the confidentiality procedures established under paragraph (b) of this section, HUD, the HUD Office of the Inspector General, and the Comptroller General of the United States, or any of their authorized representatives, must have the right of access to all books, documents, papers, or other records of the recipient and its subrecipients that are pertinent to the Continuum of Care grant, in order to make audits, examinations, excerpts, and transcripts. These rights of access are not limited to the required retention period, but last as long as the records are retained.
- (2) **Public rights.** The recipient must provide citizens, public agencies, and other interested parties with reasonable access to records regarding any uses of Continuum of Care funds the recipient received during the preceding 5 years, consistent with State and local laws regarding privacy and obligations of confidentiality and confidentiality requirements in this part.
- (e) **Reports.** In addition to the reporting requirements in 2 CFR part 200, subpart D, the recipient must collect and report data on its use of Continuum of Care funds in an Annual Performance Report (APR), as well as in any additional reports as and when required by HUD. Projects receiving grant funds only for acquisition, rehabilitation, or new construction must submit APRs for 15 years from the date of initial occupancy or the date of initial service provision, unless HUD provides an exception under § 578.81(e).

[77 FR 45442, July 31, 2012, as amended at 80 FR 75804, Dec. 4, 2015; 80 FR 75940, Dec. 7, 2015; 80 FR 80258, Dec. 24, 2015; 81 FR 80811, Nov. 16, 2016]

§ 578.105 Grant and project changes.

(a) *For Unified Funding Agencies and Continuums having only one recipient.*

- (1) The recipient may not make any significant changes without prior HUD approval, evidenced by a grant amendment signed by HUD and the recipient. Significant grant changes include a change of recipient, a shift in a single year of more than 10 percent of the total amount awarded under the grant for one approved eligible activity category to another activity and a permanent change in the subpopulation served by any one project funded under the grant, as well as a permanent proposed reduction in the total number of units funded under the grant.
- (2) Approval of substitution of the recipient is contingent on the new recipient meeting the capacity criteria in the NOFA under which the grant was awarded, or the most recent NOFA. Approval of shifting funds between activities and changing subpopulations is contingent on the change being necessary to better serve eligible persons within the geographic area and ensuring that the priorities established under the NOFA in which the grant was originally awarded, or the most recent NOFA, are met.

(b) *For Continuums having more than one recipient.*

- (1) The recipients or subrecipients may not make any significant changes to a project without prior HUD approval, evidenced by a grant amendment signed by HUD and the recipient. Significant changes include a change of recipient, a change of project site, additions or deletions in the types of eligible activities approved for a project, a shift of more than 10 percent from one approved eligible activity to another, a reduction in the number of units, and a change in the subpopulation served.
- (2) Approval of substitution of the recipient is contingent on the new recipient meeting the capacity criteria in the NOFA under which the grant was awarded, or the most recent NOFA. Approval of shifting funds between activities and changing subpopulations is contingent on the change being

necessary to better serve eligible persons within the geographic area and ensuring that the priorities established under the NOFA in which the grant was originally awarded, or the most recent NOFA, are met.

- (c) **Documentation of changes not requiring a grant amendment.** Any other changes to an approved grant or project must be fully documented in the recipient's or subrecipient's records.

§ 578.107 Sanctions.

- (a) **Performance reviews.**

- (1) HUD will review the performance of each recipient in carrying out its responsibilities under this part, with or without prior notice to the recipient. In conducting performance reviews, HUD will rely primarily on information obtained from the records and reports from the recipient and subrecipients, as well as information from on-site monitoring, audit reports, and information generated from HUD's financial and reporting systems (e.g., LOCCS and e-snaps) and HMIS. Where applicable, HUD may also consider relevant information pertaining to the recipient's performance gained from other sources, including citizen comments, complaint determinations, and litigation.
- (2) If HUD determines preliminarily that the recipient or one of its subrecipients has not complied with a program requirement, HUD will give the recipient notice of this determination and an opportunity to demonstrate, within the time prescribed by HUD and on the basis of substantial facts and data that the recipient has complied with the requirements. HUD may change the method of payment to require the recipient to submit documentation before payment and obtain HUD's prior approval each time the recipient draws down funds. To obtain prior approval, the recipient may be required to manually submit its payment requests and supporting documentation to HUD in order to show that the funds to be drawn down will be expended on eligible activities in accordance with all program requirements.
- (3) If the recipient fails to demonstrate to HUD's satisfaction that the activities were carried out in compliance with program requirements, HUD may take one or more of the remedial actions or sanctions specified in paragraph (b) of this section.

- (b) **Remedial actions and sanctions.** Remedial actions and sanctions for a failure to meet a program requirement will be designed to prevent a continuation of the deficiency; to mitigate, to the extent possible, its adverse effects or consequences; and to prevent its recurrence.

- (1) HUD may instruct the recipient to submit and comply with proposals for action to correct, mitigate, and prevent noncompliance with program requirements, including:
 - (i) Preparing and following a schedule of actions for carrying out activities and projects affected by the noncompliance, including schedules, timetables, and milestones necessary to implement the affected activities and projects;
 - (ii) Establishing and following a management plan that assigns responsibilities for carrying out the remedial actions;
 - (iii) Canceling or revising activities or projects likely to be affected by the noncompliance, before expending grant funds for them;
 - (iv) Reprogramming grant funds that have not yet been expended from affected activities or projects to other eligible activities or projects;
 - (v) Suspending disbursement of grant funds for some or all activities or projects;

- (vi) Reducing or terminating the remaining grant of a subrecipient and either reallocating those funds to other subrecipients or returning funds to HUD; and
 - (vii) Making matching contributions before or as draws are made from the recipient's grant.
- (2) HUD may change the method of payment to a reimbursement basis.
 - (3) HUD may suspend payments to the extent HUD determines necessary to preclude the further expenditure of funds for affected activities or projects.
 - (4) HUD may continue the grant with a substitute recipient of HUD's choosing.
 - (5) HUD may deny matching credit for all or part of the cost of the affected activities and require the recipient to make further matching contributions to make up for the contribution determined to be ineligible.
 - (6) HUD may require the recipient to reimburse the recipient's line of credit in an amount equal to the funds used for the affected activities.
 - (7) HUD may reduce or terminate the remaining grant of a recipient.
 - (8) HUD may condition a future grant.
 - (9) HUD may take other remedies that are legally available.
- (c) **Recipient sanctions.** If the recipient determines that a subrecipient is not complying with a program requirement or its subrecipient agreement, the recipient must take one of the actions listed in paragraphs (a) and (b) of this section.
- (d) **Deobligation.** HUD may deobligate funds for the following reasons:
- (1) If the timeliness standards in § 578.85 are not met;
 - (2) If HUD determines that delays completing construction activities for a project will mean that the funds for other funded activities cannot reasonably be expected to be expended for eligible costs during the remaining term of the grant;
 - (3) If the actual total cost of acquisition, rehabilitation, or new construction for a project is less than the total cost agreed to in the grant agreement;
 - (4) If the actual annual leasing costs, operating costs, supportive services costs, rental assistance costs, or HMIS costs are less than the total cost agreed to in the grant agreement for a one-year period;
 - (5) Program participants have not moved into units within 3 months of the time that the units are available for occupancy; and
 - (6) The grant agreement may set forth in detail other circumstances under which funds may be deobligated and other sanctions may be imposed.

§ 578.109 Closeout.

- (a) **In general.** Grants will be closed out in accordance with the requirements of 2 CFR part 200, subpart D, and closeout procedures established by HUD.
- (b) **Reports.** Applicants must submit all reports required by HUD no later than 90 days from the date of the end of the project's grant term.

- (c) **Closeout agreement.** Any obligations remaining as of the date of the closeout must be covered by the terms of a closeout agreement. The agreement will be prepared by HUD in consultation with the recipient. The agreement must identify the grant being closed out, and include provisions with respect to the following:
- (1) Identification of any closeout costs or contingent liabilities subject to payment with Continuum of Care program funds after the closeout agreement is signed;
 - (2) Identification of any unused grant funds to be deobligated by HUD;
 - (3) Identification of any program income on deposit in financial institutions at the time the closeout agreement is signed;
 - (4) Description of the recipient's responsibility after closeout for:
 - (i) Compliance with all program requirements in using program income on deposit at the time the closeout agreement is signed and in using any other remaining Continuum of Care program funds available for closeout costs and contingent liabilities;
 - (ii) Use of real property assisted with Continuum of Care program funds in accordance with the terms of commitment and principles;
 - (iii) Use of personal property purchased with Continuum of Care program funds; and
 - (iv) Compliance with requirements governing program income received subsequent to grant closeout.
 - (5) Other provisions appropriate to any special circumstances of the grant closeout, in modification of or in addition to the obligations in paragraphs (c)(1) through (4) of this section.

[77 FR 45442, July 31, 2012, as amended at 80 FR 75940, Dec. 7, 2015]

**The McKinney-Vento Homeless Assistance Act
As amended by S. 896 The Homeless Emergency Assistance and Rapid Transition to
Housing (HEARTH) Act of 2009**

SEC. 103. [42 USC 11302]. GENERAL DEFINITION OF HOMELESS INDIVIDUAL.

(a) IN GENERAL.—For purposes of this Act, the term “homeless”, “homeless individual”, and “homeless person” means—

(1) an individual or family who lacks a fixed, regular, and adequate nighttime residence;

(2) an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

(3) an individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing);

(4) an individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided;

(5) an individual or family who—

(A) will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by—

(i) a court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days;

(ii) the individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or

(iii) credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible shall be considered credible evidence for purposes of this clause;

(B) has no subsequent residence identified; and

(C) lacks the resources or support networks needed to obtain other permanent housing; and

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(6) unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who--

(A) have experienced a long term period without living independently in permanent housing,

(B) have experienced persistent instability as measured by frequent moves over such period, and

(C) can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

(b) DOMESTIC VIOLENCE AND OTHER DANGEROUS OR LIFE-THREATENING CONDITIONS.—Notwithstanding any other provision of this section, the Secretary shall consider to be homeless any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual's or family's current housing situation, including where the health and safety of children are jeopardized, and who have no other residence and lack the resources or support networks to obtain other permanent housing.

(c) INCOME ELIGIBILITY.—

(1) IN GENERAL.—A homeless individual shall be eligible for assistance under any program provided by this Act, only if the individual complies with the income eligibility requirements otherwise applicable to such program.

(2) EXCEPTION.—Notwithstanding paragraph (1), a homeless individual shall be eligible for assistance under title I of the Workforce Investment Act of 1998.

(d) EXCLUSION.—For purposes of this Act, the term “homeless” or “homeless individual” does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

(e) PERSONS EXPERIENCING HOMELESSNESS.—Any references in this Act to homeless individuals (including homeless persons) or homeless groups (including homeless persons) shall be considered to include, and to refer to, individuals experiencing homelessness or groups experiencing homelessness, respectively.

SEC. 104. [42 USC 11303]. FUNDING AVAILABILITY AND LIMITATIONS.

(a) CALCULATION.—The amounts authorized in this Act shall be in addition to any amount appropriated for the programs involved before July 22, 1987.

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(b) AVAILABILITY UNTIL EXPENDED.—Any amount appropriated under an authorization in this Act shall remain available until expended.

(c) LIMITATION.—Appropriations pursuant to the authorizations in this Act shall be made in accordance with the provisions of the Congressional Budget and Impoundment Control Act of 1974, which prohibits the consideration of any bill that would cause the deficit to exceed the levels established by the Balanced Budget and Emergency Deficit Control Act of 1985, such that it shall not increase the deficit of the Federal Government for fiscal year 1987.

SEC. 105. [42 USC 11304]. PROGRAM SUMMARY BY COMPTROLLER GENERAL.

The Comptroller General of the United States may evaluate the disbursement and use of the amounts made available by appropriation Acts under the authorizations in titles III and IV of.

TITLE IV—HOUSING ASSISTANCE
SUBTITLE A—GENERAL PROVISIONS

SEC. 401. DEFINITIONS.

For purposes of this title:

(1) AT RISK OF HOMELESSNESS.—The term 'at risk of homelessness' means, with respect to an individual or family, that the individual or family—

(A) has income below 30 percent of median income for the geographic area;

(B) has insufficient resources immediately available to attain housing stability; and

(C)(i) has moved frequently because of economic reasons;

(ii) is living in the home of another because of economic hardship;

(iii) has been notified that their right to occupy their current housing or living situation will be terminated;

(iv) lives in a hotel or motel;

(v) lives in severely overcrowded housing;

(vi) is exiting an institution; or

(vii) otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness.

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Such term includes all families with children and youth defined as homeless under other Federal statutes.

(2) CHRONICALLY HOMELESS.—

(A) IN GENERAL.—The term `chronically homeless' means, with respect to an individual or family, that the individual or family—

(i) is homeless and lives or resides in a place not meant for human habitation, a safe haven, or in an emergency shelter;

(ii) has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least 1 year or on at least 4 separate occasions in the last 3 years; and

(iii) has an adult head of household (or a minor head of household if no adult is present in the household) with a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), post traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability, including the co-occurrence of 2 or more of those conditions.

(B) RULE OF CONSTRUCTION.—A person who currently lives or resides in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital or other similar facility, and has resided there for fewer than 90 days shall be considered chronically homeless if such person met all of the requirements described in subparagraph (A) prior to entering that facility.

(3) COLLABORATIVE APPLICANT.—The term `collaborative applicant' means an entity that—

(A) carries out the duties specified in section 402;

(B) serves as the applicant for project sponsors who jointly submit a single application for a grant under subtitle C in accordance with a collaborative process; and

(C) if the entity is a legal entity and is awarded such grant, receives such grant directly from the Secretary.

(4) COLLABORATIVE APPLICATION.—The term `collaborative application' means an application for a grant under subtitle C that—

(A) satisfies section 422; and

(B) is submitted to the Secretary by a collaborative applicant.

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(5) CONSOLIDATED PLAN.—The term `Consolidated Plan' means a comprehensive housing affordability strategy and community development plan required in part 91 of title 24, Code of Federal Regulations.

(6) ELIGIBLE ENTITY.—The term `eligible entity' means, with respect to a subtitle, a public entity, a private entity, or an entity that is a combination of public and private entities, that is eligible to directly receive grant amounts under such subtitle.

(7) FAMILIES WITH CHILDREN AND YOUTH DEFINED AS HOMELESS UNDER OTHER FEDERAL STATUTES.—The term `families with children and youth defined as homeless under other Federal statutes' means any children or youth that are defined as `homeless' under any Federal statute other than this subtitle, but are not defined as homeless under section 103, and shall also include the parent, parents, or guardian of such children or youth under subtitle B of title VII this Act (42 U.S.C. 11431 et seq.).

(8) GEOGRAPHIC AREA.—The term `geographic area' means a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306).

(9) HOMELESS INDIVIDUAL WITH A DISABILITY.—

(A) IN GENERAL.—The term `homeless individual with a disability' means an individual who is homeless, as defined in section 103, and has a disability that—

(i)(I) is expected to be long-continuing or of indefinite duration;

(II) substantially impedes the individual's ability to live independently;

(III) could be improved by the provision of more suitable housing conditions; and

(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post traumatic stress disorder, or brain injury;

(ii) is a developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002); or

(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

(B) RULE—Nothing in clause (iii) of subparagraph (A) shall be construed to limit eligibility under clause (i) or (ii) of subparagraph (A).

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(10) LEGAL ENTITY.—The term `legal entity' means—

(A) an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of such Code;

(B) an instrumentality of State or local government; or

(C) a consortium of instrumentalities of State or local governments that has constituted itself as an entity.

(11) METROPOLITAN CITY; URBAN COUNTY; NONENTITLEMENT AREA.—The terms `metropolitan city', `urban county', and `nonentitlement area' have the meanings given such terms in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

(12) NEW.—The term `new' means, with respect to housing, that no assistance has been provided under this title for the housing.

(13) OPERATING COSTS.—The term `operating costs' means expenses incurred by a project sponsor operating transitional housing or permanent housing under this title with respect to—

(A) the administration, maintenance, repair, and security of such housing;

(B) utilities, fuel, furnishings, and equipment for such housing; or

(C) coordination of services as needed to ensure long-term housing stability.

(14) OUTPATIENT HEALTH SERVICES.—The term `outpatient health services' means outpatient health care services, mental health services, and outpatient substance abuse services.

(15) PERMANENT HOUSING.—The term `permanent housing' means community-based housing without a designated length of stay, and includes both permanent supportive housing and permanent housing without supportive services.

(16) PERSONALLY IDENTIFYING INFORMATION.—The term `personally identifying information' means individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

(A) a first and last name;

(B) a home or other physical address;

(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

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(D) a social security number; and

(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any other non-personally identifying information, would serve to identify any individual.

(17) PRIVATE NONPROFIT ORGANIZATION.—The term `private nonprofit organization' means an organization—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

(D) that practices nondiscrimination in the provision of assistance.

(18) PROJECT.—The term `project' means, with respect to activities carried out under subtitle C, eligible activities described in section 423(a), undertaken pursuant to a specific endeavor, such as serving a particular population or providing a particular resource.

(19) PROJECT-BASED.—The term `project-based' means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

(A) is between—

(i) the recipient or a project sponsor; and

(ii) an owner of a structure that exists as of the date the contract is entered into;
and

(B) provides that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

(20) PROJECT SPONSOR.—The term `project sponsor' means, with respect to proposed eligible activities, the organization directly responsible for carrying out the proposed eligible activities.

(21) RECIPIENT.—Except as used in subtitle B, the term `recipient' means an eligible entity who—

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(A) submits an application for a grant under section 422 that is approved by the Secretary;

(B) receives the grant directly from the Secretary to support approved projects described in the application; and

(C)(i) serves as a project sponsor for the projects; or

(ii) awards the funds to project sponsors to carry out the projects.

(22) SECRETARY.—The term `Secretary' means the Secretary of Housing and Urban Development.

(23) SERIOUS MENTAL ILLNESS.—The term `serious mental illness' means a severe and persistent mental illness or emotional impairment that seriously limits a person's ability to live independently.

(24) SOLO APPLICANT.—The term `solo applicant' means an entity that is an eligible entity, directly submits an application for a grant under subtitle C to the Secretary, and, if awarded such grant, receives such grant directly from the Secretary.

(25) SPONSOR-BASED.—The term `sponsor-based' means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

(A) is between—

(i) the recipient or a project sponsor; and

(ii) an independent entity that—

(I) is a private organization; and

(II) owns or leases dwelling units; and

(B) provides that rental assistance payments shall be made to the independent entity and that eligible persons shall occupy such assisted units.

(26) STATE.—Except as used in subtitle B, the term `State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(27) SUPPORTIVE SERVICES.—The term `supportive services' means services that address the special needs of people served by a project, including—

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(A) the establishment and operation of a child care services program for families experiencing homelessness;

(B) the establishment and operation of an employment assistance program, including providing job training;

(C) the provision of outpatient health services, food, and case management;

(D) the provision of assistance in obtaining permanent housing, employment counseling, and nutritional counseling;

(E) the provision of outreach services, advocacy, life skills training, and housing search and counseling services;

(F) the provision of mental health services, trauma counseling, and victim services;

(G) the provision of assistance in obtaining other Federal, State, and local assistance available for residents of supportive housing (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment);

(H) the provision of legal services for purposes including requesting reconsiderations and appeals of veterans and public benefit claim denials and resolving outstanding warrants that interfere with an individual's ability to obtain and retain housing;

(I) the provision of—

(i) transportation services that facilitate an individual's ability to obtain and maintain employment; and

(ii) health care; and

(J) other supportive services necessary to obtain and maintain housing.

(28) TENANT-BASED.—The term `tenant-based' means, with respect to rental assistance, assistance that—

(A) allows an eligible person to select a housing unit in which such person will live using rental assistance provided under subtitle C, except that if necessary to assure that the provision of supportive services to a person participating in a program is feasible, a recipient or project sponsor may require that the person live—

(i) in a particular structure or unit for not more than the first year of the participation;

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(ii) within a particular geographic area for the full period of the participation, or the period remaining after the period referred to in subparagraph (A); and

(B) provides that a person may receive such assistance and move to another structure, unit, or geographic area if the person has complied with all other obligations of the program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

(29) TRANSITIONAL HOUSING.—The term `transitional housing' means housing the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period as the Secretary determines necessary.

(30) UNIFIED FUNDING AGENCY.—The term `unified funding agency' means a collaborative applicant that performs the duties described in section 402(g).

(31) UNDERSERVED POPULATIONS.—The term `underserved populations' includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Secretary, as appropriate.

(32) VICTIM SERVICE PROVIDER.—The term `victim service provider' means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. Such term includes rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs.

(33) VICTIM SERVICES.—The term `victim services' means services that assist domestic violence, dating violence, sexual assault, or stalking victims, including services offered by rape crisis centers and domestic violence shelters, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

SEC. 402. COLLABORATIVE APPLICANTS.

(a) ESTABLISHMENT AND DESIGNATION.—A collaborative applicant shall be established for a geographic area by the relevant parties in that geographic area to—

(1) submit an application for amounts under this subtitle; and

(2) perform the duties specified in subsection (f) and, if applicable, subsection (g).

(b) NO REQUIREMENT TO BE A LEGAL ENTITY.—An entity may be established to serve as a collaborative applicant under this section without being a legal entity.

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(c) REMEDIAL ACTION.—If the Secretary finds that a collaborative applicant for a geographic area does not meet the requirements of this section, or if there is no collaborative applicant for a geographic area, the Secretary may take remedial action to ensure fair distribution of grant amounts under subtitle C to eligible entities within that area. Such measures may include designating another body as a collaborative applicant, or permitting other eligible entities to apply directly for grants.

(d) CONSTRUCTION.—Nothing in this section shall be construed to displace conflict of interest or government fair practices laws, or their equivalent, that govern applicants for grant amounts under subtitles B and C.

(e) APPOINTMENT OF AGENT.—

(1) IN GENERAL.—Subject to paragraph (2), a collaborative applicant may designate an agent to—

- (A) apply for a grant under section 422(c);
- (B) receive and distribute grant funds awarded under subtitle C; and
- (C) perform other administrative duties.

(2) RETENTION OF DUTIES.—Any collaborative applicant that designates an agent pursuant to paragraph (1) shall regardless of such designation retain all of its duties and responsibilities under this title.

(f) DUTIES.—A collaborative applicant shall—

(1) design a collaborative process for the development of an application under subtitle C, and for evaluating the outcomes of projects for which funds are awarded under subtitle B, in such a manner as to provide information necessary for the Secretary—

- (A) to determine compliance with—
 - (i) the program requirements under section 426; and
 - (ii) the selection criteria described under section 427; and
- (B) to establish priorities for funding projects in the geographic area involved;

(2) participate in the Consolidated Plan for the geographic area served by the collaborative applicant; and

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(3) ensure operation of, and consistent participation by, project sponsors in a community-wide homeless management information system (in this subsection referred to as `HMIS') that—

(A) collects unduplicated counts of individuals and families experiencing homelessness;

(B) analyzes patterns of use of assistance provided under subtitles B and C for the geographic area involved;

(C) provides information to project sponsors and applicants for needs analyses and funding priorities; and

(D) is developed in accordance with standards established by the Secretary, including standards that provide for—

(i) encryption of data collected for purposes of HMIS;

(ii) documentation, including keeping an accurate accounting, proper usage, and disclosure, of HMIS data;

(iii) access to HMIS data by staff, contractors, law enforcement, and academic researchers;

(iv) rights of persons receiving services under this title;

(v) criminal and civil penalties for unlawful disclosure of data; and

(vi) such other standards as may be determined necessary by the Secretary.

(g) UNIFIED FUNDING.—

(1) IN GENERAL.—In addition to the duties described in subsection (f), a collaborative applicant shall receive from the Secretary and distribute to other project sponsors in the applicable geographic area funds for projects to be carried out by such other project sponsors, if—

(A) the collaborative applicant—

(i) applies to undertake such collection and distribution responsibilities in an application submitted under this subtitle; and

(ii) is selected to perform such responsibilities by the Secretary; or

(B) the Secretary designates the collaborative applicant as the unified funding agency in the geographic area, after—

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(i) a finding by the Secretary that the applicant—

(I) has the capacity to perform such responsibilities; and

(II) would serve the purposes of this Act as they apply to the geographic area; and

(ii) the Secretary provides the collaborative applicant with the technical assistance necessary to perform such responsibilities as such assistance is agreed to by the collaborative applicant.

(2) **REQUIRED ACTIONS BY A UNIFIED FUNDING AGENCY.**—A collaborative applicant that is either selected or designated as a unified funding agency for a geographic area under paragraph (1) shall—

(A) require each project sponsor who is funded by a grant received under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds awarded to the project sponsor under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

(B) arrange for an annual survey, audit, or evaluation of the financial records of each project carried out by a project sponsor funded by a grant received under subtitle C.

(h) **CONFLICT OF INTEREST.**—No board member of a collaborative applicant may participate in decisions of the collaborative applicant concerning the award of a grant, or provision of other financial benefits, to such member or the organization that such member represents.

SEC. 403. [42 USC 11361]. HOUSING AFFORDABILITY STRATEGY.

Assistance may be made under this title only if the grantee certifies that it is following--

(1) a consolidated plan which has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act (referred to in such section as a “comprehensive housing affordability strategy”), or

(2) a comprehensive homeless assistance plan which was approved by the Secretary during the 180-day period beginning on November 28, 1990, or during such longer period as may be prescribed by the Secretary in any case for good cause.

SEC. 404. PREVENTING INVOLUNTARY FAMILY SEPARATION.

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(a) IN GENERAL.—After the expiration of the 2-year period that begins upon the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, and except as provided in subsection (b), any project sponsor receiving funds under this title to provide emergency shelter, transitional housing, or permanent housing to families with children under age 18 shall not deny admission to any family based on the age of any child under age 18.

(b) EXCEPTION.—Notwithstanding the requirement under subsection (a), project sponsors of transitional housing receiving funds under this title may target transitional housing resources to families with children of a specific age only if the project sponsor—

(1) operates a transitional housing program that has a primary purpose of implementing an evidence-based practice that requires that housing units be targeted to families with children in a specific age group; and

(2) provides such assurances, as the Secretary shall require, that an equivalent appropriate alternative living arrangement for the whole family or household unit has been secured.

SEC. 405. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—The Secretary shall make available technical assistance to private nonprofit organizations and other nongovernmental entities, States, metropolitan cities, urban counties, and counties that are not urban counties, to implement effective planning processes for preventing and ending homelessness, to improve their capacity to prepare collaborative applications, to prevent the separation of families in emergency shelter or other housing programs, and to adopt and provide best practices in housing and services for persons experiencing homeless.

(b) RESERVATION.—The Secretary shall reserve not more than 1 percent of the funds made available for any fiscal year for carrying out subtitles B and C, to provide technical assistance under subsection (a).

SEC. 406. [42 USC 11362]. DISCHARGE COORDINATION POLICY.

The Secretary may not provide a grant under this title for any governmental entity serving as an applicant unless the applicant agrees to develop and implement, to the maximum extent practicable and where appropriate, policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such persons.

SEC. 407. PROTECTION OF PERSONALLY IDENTIFYING INFORMATION BY VICTIM SERVICE PROVIDERS.

In the course of awarding grants or implementing programs under this title, the Secretary shall instruct any victim service provider that is a recipient or subgrantee not to disclose for purposes of the Homeless Management Information System any personally identifying information about

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any client. The Secretary may, after public notice and comment, require or ask such recipients and subgrantees to disclose for purposes of the Homeless Management Information System non-personally identifying information that has been de-identified, encrypted, or otherwise encoded. Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this subsection for victims of domestic violence, dating violence, sexual assault, or stalking.

SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title \$2,200,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal year 2011.

SUBTITLE B—EMERGENCY SOLUTIONS GRANTS PROGRAM

SEC. 411. [42 USC 11371]. DEFINITIONS.

For purposes of this subtitle:

- (1) The term “local government” means a unit of general purpose local government.
- (2) The term “locality” means the geographical area within the jurisdiction of a local government.
- (3) The term “metropolitan city” has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.
- (4) The term “operating costs” means expenses incurred by a recipient operating a facility assisted under this subtitle with respect to—
 - (A) the administration, maintenance, repair, and security of such housing; and
 - (B) utilities, fuels, furnishings, and equipment for such housing.
- (5) The term “private nonprofit organization” means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under subtitle A of such Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.
- (6) The term “recipient” means any governmental or private nonprofit entity that is approved by the Secretary as to financial responsibility.
- (7) The term “Secretary” means the Secretary of Housing and Urban Development.
- (8) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern

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Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(9) The term “urban county” has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

SEC. 412. [42 USC 11372]. GRANT ASSISTANCE.

The Secretary shall make grants to States and local governments (and to private nonprofit organizations providing assistance to persons experiencing homelessness or at risk of homelessness, in the case of grants made with reallocated amounts) for the purpose of carrying out activities described in section 415.

SEC. 413. AMOUNT AND ALLOCATION OF ASSISTANCE.

(a) **IN GENERAL.**—Of the amount made available to carry out this subtitle and subtitle C for a fiscal year, the Secretary shall allocate nationally 20 percent of such amount for activities described in section 415. The Secretary shall be required to certify that such allocation will not adversely affect the renewal of existing projects under this subtitle and subtitle C for those individuals or families who are homeless.

(b) **ALLOCATION.**—An entity that receives a grant under section 412, and serves an area that includes 1 or more geographic areas (or portions of such areas) served by collaborative applicants that submit applications under subtitle C, shall allocate the funds made available through the grant to carry out activities described in section 415, in consultation with the collaborative applicants.

SEC. 414. [42 USC 11373]. ALLOCATION AND DISTRIBUTION OF ASSISTANCE.

(a) **IN GENERAL.**—The Secretary shall allocate assistance under this subtitle to metropolitan cities, urban counties, and States (for distribution to local governments and private nonprofit organizations in the States) in a manner that ensures that the percentage of the total amount available under this subtitle for any fiscal year that is allocated to any State, metropolitan city, or urban county is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 for such prior fiscal year that is allocated to such State, metropolitan city, or urban county.

(b) **MINIMUM ALLOCATION REQUIREMENT.**—If, under the allocation provisions applicable under this subtitle, any metropolitan city or urban county would receive a grant of less than 0.05 percent of the amounts appropriated under section 408 and made available to carry out this subtitle for any fiscal year, such amount shall instead be reallocated to the State, except that any city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated in excess of \$1,000,000 in community development block grant funds in fiscal year 1987, shall receive directly the amount allocated to such city under subsection (a).

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(c) **DISTRIBUTIONS TO NONPROFIT ORGANIZATIONS.**—Any local government receiving assistance under this subtitle may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals. Any State receiving assistance under this subtitle may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, if the local government for the locality in which the project is located certifies that it approves of the project.

(d) **REALLOCATION OF FUNDS.**—

(1) The Secretary shall, not less than twice during each fiscal year, reallocate any assistance provided under this subtitle that is unused or returned or that becomes available under subsection (b).

(2) If a city or county eligible for a grant under subsection (a) fails to obtain approval of its comprehensive plan during the 90-day period following the date funds authorized by this subtitle first become available for allocation during any fiscal year, the amount that the city or county would have received shall be available to the State in which the city or county is located if the State has obtained approval of its comprehensive plan. Any amounts that cannot be allocated to a State under the preceding sentence shall be reallocated to other States, counties, and cities that demonstrate extraordinary need or large numbers of homeless individuals, as determined by the Secretary.

(3) If a State fails to obtain approval of its comprehensive plan during the 90-day period following the date funds authorized by this subtitle first become available for allocation during any fiscal year, the amount that the State would have received shall be reallocated to other States and to cities and counties as applicable, that demonstrate extraordinary need or large numbers of homeless individuals, as determined by the Secretary.

(e) **ALLOCATIONS TO TERRITORIES.**—In addition to the other allocations required in this section, the Secretary shall (for amounts appropriated after July 22, 1987) allocate assistance under this subtitle to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, in accordance with an allocation formula established by the Secretary.

SEC. 415. [42 USC 11374]. ELIGIBLE ACTIVITIES.

(a) **IN GENERAL.**—Assistance provided under section 412 may be used for the following activities:

(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

(2) The provision of essential services related to emergency shelter or street outreach, including services concerned with employment, health, education, family support services for homeless youth, substance abuse services, victim services, or mental health services, if—

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(A) such essential services have not been provided by the local government during any part of the immediately preceding 12-month period or the Secretary determines that the local government is in a severe financial deficit; or

(B) the use of assistance under this subtitle would complement the provision of those essential services.

(3) Maintenance, operation, insurance, provision of utilities, and provision of furnishings related to emergency shelter.

(4) Provision of rental assistance to provide short-term or medium-term housing to homeless individuals or families or individuals or families at risk of homelessness. Such rental assistance may include tenant-based or project-based rental assistance.

(5) Housing relocation or stabilization services for homeless individuals or families or individuals or families at risk of homelessness, including housing search, mediation or outreach to property owners, legal services, credit repair, providing security or utility deposits, utility payments, rental assistance for a final month at a location, assistance with moving costs, or other activities that are effective at—

(A) stabilizing individuals and families in their current housing; or

(B) quickly moving such individuals and families to other permanent housing.

(b) **MAXIMUM ALLOCATION FOR EMERGENCY SHELTER ACTIVITIES.**—A grantee of assistance provided under section 412 for any fiscal year may not use an amount of such assistance for activities described in paragraphs (1) through (3) of subsection (a) that exceeds the greater of—

(1) 60 percent of the aggregate amount of such assistance provided for the grantee for such fiscal year; or

(2) the amount expended by such grantee for such activities during fiscal year most recently completed before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009.

SEC. 416. [42 USC 11375]. RESPONSIBILITIES OF RECIPIENTS.

(a) **MATCHING AMOUNTS.**—

(1) Except as provided in paragraph (2), each recipient under this subtitle shall be required to supplement the assistance provided under this subtitle with an equal amount of funds from sources other than this subtitle. Each recipient shall certify to the Secretary its compliance

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with this paragraph, and shall include with such certification a description of the sources and amounts of such supplemental funds.

(2) Each recipient under this subtitle that is a State shall be required to supplement the assistance provided under this subtitle with an amount of funds from sources other than this subtitle equal to the difference between the amount received under this subtitle and \$100,000. If the amount received by the State is \$100,000 or less, the State may not be required to supplement the assistance provided under this subtitle.

(3) In calculating the amount of supplemental funds provided by a recipient under this subtitle, a recipient may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

(b) ADMINISTRATION OF ASSISTANCE.—Each recipient shall act as the fiscal agent of the Secretary with respect to assistance provided to such recipient.

(c) CERTIFICATIONS ON USE OF ASSISTANCE.—Each recipient shall certify to the Secretary that—

(1) it will—

(A) in the case of assistance involving major rehabilitation or conversion, maintain any building for which assistance is used under this subtitle as a shelter for homeless individuals and families for not less than a 10-year period;

(B) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion), maintain any building for which assistance is used under this subtitle as a shelter for homeless individuals and families for not less than a 3-year period; or

(C) in the case of assistance involving solely activities described in paragraphs (2) and (3) of section 414(a), provide services or shelter to homeless individuals and families for the period during which such assistance is provided, without regard to a particular site or structure as long as the same general population is served;

(2) any renovation carried out with assistance under this subtitle shall be sufficient to ensure that the building involved is safe and sanitary;

(3) it will assist homeless individuals in obtaining—

(A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

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(B) other Federal, State, local, and private assistance available for such individuals;

(4) in the case of a recipient that is a State, it will obtain any matching amounts required under subsection (a) in a manner so that local governments, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the \$100,000 subtrahend under subsection (a)(2);

(5) it will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public;

(6) activities undertaken by the recipient with assistance under this subtitle are consistent with any housing strategy submitted by the grantee in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

(7) to the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this subtitle, in providing services assisted under this subtitle, and in providing services for occupants of facilities assisted under this subtitle.

(d) **PARTICIPATION OF HOMELESS INDIVIDUALS.**—The Secretary shall, by regulation, require each recipient that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility, services, or other assistance of the recipient assisted under this subtitle. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(e) **TERMINATION OF ASSISTANCE.**—If an individual or family who receives assistance under this subtitle from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals affected, which may include a hearing.

(f) **PARTICIPATION IN HMIS.**—The Secretary shall ensure that recipients of funds under this subtitle ensure the consistent participation by emergency shelters and homelessness prevention and rehousing programs in any applicable community-wide homeless management information system.

SEC. 417. [42 USC 11376]. ADMINISTRATIVE PROVISIONS.

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(a) REGULATIONS.—Not later than 60 days after July 22, 1987, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of Title 5, United States Code. The Secretary shall issue requirements based on the initial notice before the expiration of the 12-month period following July 22, 1987. Prior to the issuance of such requirements in final form, the requirements established by the Secretary implementing the provisions of the emergency shelter grants program under the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591 shall govern the emergency shelter grants program under this subtitle.

(b) INITIAL ALLOCATION OF ASSISTANCE.—Not later than the expiration of the 60-day period following the date of enactment of a law providing appropriations to carry out this subtitle, the Secretary shall notify each State, metropolitan city, and urban county that is to receive a direct grant of its allocation of assistance under this subtitle. Such assistance shall be allocated and may be used notwithstanding any failure of the Secretary to issue requirements under subsection (a).

(c) MINIMUM STANDARDS OF HABITABILITY.—The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.

SEC. 418. [42 USC 11378]. ADMINISTRATIVE COSTS.

A recipient may use up to 7.5 percent of any annual grant received under this subtitle for administrative purposes. A recipient State shall share the amount available for administrative purposes pursuant to the preceding sentence with local governments funded by the State.

SUBTITLE C—CONTINUUM OF CARE PROGRAM

SEC. 421. PURPOSES.

The purposes of this subtitle are—

- (1) to promote community-wide commitment to the goal of ending homelessness;
- (2) to provide funding for efforts by nonprofit providers and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to individuals, families, and communities by homelessness;

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(3) to promote access to, and effective utilization of, mainstream programs described in section 203(a)(7) and programs funded with State or local resources; and

(4) to optimize self-sufficiency among individuals and families experiencing homelessness.

SEC. 422. CONTINUUM OF CARE APPLICATIONS AND GRANTS.

(a) **PROJECTS.**—The Secretary shall award grants, on a competitive basis, and using the selection criteria described in section 427, to carry out eligible activities under this subtitle for projects that meet the program requirements under section 426, either by directly awarding funds to project sponsors or by awarding funds to unified funding agencies.

(b) **NOTIFICATION OF FUNDING AVAILABILITY.**—The Secretary shall release a notification of funding availability for grants awarded under this subtitle for a fiscal year not later than 3 months after the date of the enactment of the appropriate Act making appropriations for the Department of Housing and Urban Development for such fiscal year.

(c) **APPLICATIONS.**—

(1) **SUBMISSION TO THE SECRETARY.**—To be eligible to receive a grant under subsection (a), a project sponsor or unified funding agency in a geographic area shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and containing such information as the Secretary determines necessary—

(A) to determine compliance with the program requirements and selection criteria under this subtitle; and

(B) to establish priorities for funding projects in the geographic area.

(2) **ANNOUNCEMENT OF AWARDS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Secretary shall announce, within 5 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

(B) **TRANSITION.**—For a period of up to 2 years beginning after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall announce, within 6 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

(d) **OBLIGATION, DISTRIBUTION, AND UTILIZATION OF FUNDS.**—

(1) **REQUIREMENTS FOR OBLIGATION.**—

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(A) IN GENERAL.—Not later than 9 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements, except as provided in subparagraphs (B) and (C).

(B) ACQUISITION, REHABILITATION, OR CONSTRUCTION.—Not later than 24 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor seeking the obligation of funds for acquisition of housing, rehabilitation of housing, or construction of new housing for a grant announced under subsection (c)(2) shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements.

(C) EXTENSIONS.—At the discretion of the Secretary, and in compelling circumstances, the Secretary may extend the date by which a recipient or project sponsor shall meet the requirements described in subparagraphs (A) and (B) if the Secretary determines that compliance with the requirements was delayed due to factors beyond the reasonable control of the recipient or project sponsor. Such factors may include difficulties in obtaining site control for a proposed project, completing the process of obtaining secure financing for the project, obtaining approvals from State or local governments, or completing the technical submission requirements for the project.

(2) OBLIGATION.—Not later than 45 days after a recipient or project sponsor meets the requirements described in paragraph (1), the Secretary shall obligate the funds for the grant involved.

(3) DISTRIBUTION.—A recipient that receives funds through such a grant--

(A) shall distribute the funds to project sponsors (in advance of expenditures by the project sponsors); and

(B) shall distribute the appropriate portion of the funds to a project sponsor not later than 45 days after receiving a request for such distribution from the project sponsor.

(4) EXPENDITURE OF FUNDS.—The Secretary may establish a date by which funds made available through a grant announced under subsection (c)(2) for a homeless assistance project shall be entirely expended by the recipient or project sponsors involved. The date established under this paragraph shall not occur before the expiration of the 24-month period beginning on the date that funds are obligated for activities described under paragraphs (1) or (2) of section 423(a). The Secretary shall recapture the funds not expended by such date. The Secretary shall reallocate the funds for another homeless assistance and prevention project that meets the requirements of this subtitle to be carried out, if possible and appropriate, in the same geographic area as the area served through the original grant.

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(e) **RENEWAL FUNDING FOR UNSUCCESSFUL APPLICANTS.**—The Secretary may renew funding for a specific project previously funded under this subtitle that the Secretary determines meets the purposes of this subtitle, and was included as part of a total application that met the criteria of subsection (c), even if the application was not selected to receive grant assistance. The Secretary may renew the funding for a period of not more than 1 year, and under such conditions as the Secretary determines to be appropriate.

(f) **CONSIDERATIONS IN DETERMINING RENEWAL FUNDING.**—When providing renewal funding for leasing, operating costs, or rental assistance for permanent housing, the Secretary shall make adjustments proportional to increases in the fair market rents in the geographic area.

(g) **MORE THAN 1 APPLICATION FOR A GEOGRAPHIC AREA.**—If more than 1 collaborative applicant applies for funds for a geographic area, the Secretary shall award funds to the collaborative applicant with the highest score based on the selection criteria set forth in section 427.

(h) **APPEALS.**—

(1) **IN GENERAL.**—The Secretary shall establish a timely appeal procedure for grant amounts awarded or denied under this subtitle pursuant to a collaborative application or solo application for funding.

(2) **PROCESS.**—The Secretary shall ensure that the procedure permits appeals submitted by entities carrying out homeless housing and services projects (including emergency shelters and homelessness prevention programs), and all other applicants under this subtitle.

(i) **SOLO APPLICANTS.**—A solo applicant may submit an application to the Secretary for a grant under subsection (a) and be awarded such grant on the same basis as such grants are awarded to other applicants based on the criteria described in section 427, but only if the Secretary determines that the solo applicant has attempted to participate in the continuum of care process but was not permitted to participate in a reasonable manner. The Secretary may award such grants directly to such applicants in a manner determined to be appropriate by the Secretary.

(j) **FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.**—

(1) **IN GENERAL.**—A collaborative applicant may use not more than 10 percent of funds awarded under this subtitle (continuum of care funding) for any of the types of eligible activities specified in paragraphs (1) through (7) of section 423(a) to serve families with children and youth defined as homeless under other Federal statutes, or homeless families with children and youth defined as homeless under section 103(a)(6), but only if the applicant demonstrates that the use of such funds is of an equal or greater priority or is equally or more cost effective in meeting the overall goals and objectives of the plan submitted under section 427(b)(1)(B), especially with respect to children and unaccompanied youth.

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(2) LIMITATIONS.—The 10 percent limitation under paragraph (1) shall not apply to collaborative applicants in which the rate of homelessness, as calculated in the most recent point in time count, is less than one-tenth of 1 percent of total population.

(3) TREATMENT OF CERTAIN POPULATIONS.—

(A) IN GENERAL.—Notwithstanding section 103(a) and subject to subparagraph (B), funds awarded under this subtitle may be used for eligible activities to serve unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) only pursuant to paragraph (1) of this subsection and such families and children shall not otherwise be considered as homeless for purposes of this subtitle.

(B) AT RISK OF HOMELESSNESS.—Subparagraph (A) may not be construed to prevent any unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) from qualifying for, and being treated for purposes of this subtitle as, at risk of homelessness or from eligibility for any projects, activities, or services carried out using amounts provided under this subtitle for which individuals or families that are at risk of homelessness are eligible.

SEC. 423. [42 USC 11383]. ELIGIBLE ACTIVITIES.

(a) IN GENERAL.—Grants awarded under section 422 to qualified applicants shall be used to carry out projects that serve homeless individuals or families that consist of one or more of the following eligible activities:

- (1) Construction of new housing units to provide transitional or permanent housing.
- (2) Acquisition or rehabilitation of a structure to provide transitional or permanent housing, other than emergency shelter, or to provide supportive services.
- (3) Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services.
- (4) Provision of rental assistance to provide transitional or permanent housing to eligible persons. The rental assistance may include tenant-based, project-based, or sponsor-based rental assistance. Project-based rental assistance, sponsor-based rental assistance, and operating cost assistance contracts carried out by project sponsors receiving grants under this section may, at the discretion of the applicant and the project sponsor, have an initial term of 15 years, with assistance for the first 5 years paid with funds authorized for appropriation under this Act, and assistance for the remainder of the term treated as a renewal of an expiring contract as provided in section 429. Project-based rental assistance may include rental assistance to preserve existing permanent supportive housing for homeless individuals and families.

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(5) Payment of operating costs for housing units assisted under this subtitle or for the preservation of housing that will serve homeless individuals and families and for which another form of assistance is expiring or otherwise no longer available.

(6) Supportive services for individuals and families who are currently homeless, who have been homeless in the prior six months but are currently residing in permanent housing, or who were previously homeless and are currently residing in permanent supportive housing.

(7) Provision of rehousing services, including housing search, mediation or outreach to property owners, credit repair, providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or other activities that—

(A) are effective at moving homeless individuals and families immediately into housing; or

(B) may benefit individuals and families who in the prior 6 months have been homeless, but are currently residing in permanent housing.

(8) In the case of a collaborative applicant that is a legal entity, performance of the duties described under section 402(f)(3).

(9) Operation of, participation in, and ensuring consistent participation by project sponsors in, a community-wide homeless management information system.

(10) In the case of a collaborative applicant that is a legal entity, payment of administrative costs related to meeting the requirements described in paragraphs (1) and (2) of section 402(f), for which the collaborative applicant may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs.

(11) In the case of a collaborative applicant that is a unified funding agency under section 402(g), payment of administrative costs related to meeting the requirements of that section, for which the unified funding agency may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs, in addition to funds used under paragraph (10).

(12) Payment of administrative costs to project sponsors, for which each project sponsor may use not more than 10 percent of the total funds made available to that project sponsor through this subtitle for such costs.

(b) **MINIMUM GRANT TERMS.**—The Secretary may impose minimum grant terms of up to 5 years for new projects providing permanent housing.

(c) **USE RESTRICTIONS.**—

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(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for not less than 15 years.

(2) OTHER ACTIVITIES.—A project that consists of activities described in any of paragraphs (3) through (12) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for the duration of the grant period involved.

(3) CONVERSION.—If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the Secretary to carry out instead a project for the direct benefit of low-income persons, and the Secretary determines that the initial project is no longer needed to provide transitional or permanent housing, the Secretary may approve the project described in the request and authorize the recipient or project sponsor to carry out that project.

(d) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

(1) REPAYMENT.—If a recipient or project sponsor receives assistance under section 422 to carry out a project that consists of activities described in paragraph (1) or (2) of subsection (a) and the project ceases to provide transitional or permanent housing—

(A) earlier than 10 years after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 100 percent of the assistance; or

(B) not earlier than 10 years, but earlier than 15 years, after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 20 percent of the assistance for each of the years in the 15-year period for which the project fails to provide that housing.

(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), if any property is used for a project that receives assistance under subsection (a) and consists of activities described in paragraph (1) or (2) of subsection (a), and the sale or other disposition of the property occurs before the expiration of the 15-year period beginning on the date that operation of the project begins, the recipient or project sponsor who received the assistance shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient or project sponsor from unduly benefitting from such sale or disposition.

(3) EXCEPTION.—A recipient or project sponsor shall not be required to make the repayments, and comply with the terms and conditions, required under paragraph (1) or (2) if—

(A) the sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons;

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(B) all of the proceeds of the sale or disposition are used to provide transitional or permanent housing meeting the requirements of this subtitle;

(C) project-based rental assistance or operating cost assistance from any Federal program or an equivalent State or local program is no longer made available and the project is meeting applicable performance standards, provided that the portion of the project that had benefitted from such assistance continues to meet the tenant income and rent restrictions for low-income units under section 42(g) of the Internal Revenue Code of 1986; or

(D) there are no individuals and families in the geographic area who are homeless, in which case the project may serve individuals and families at risk of homelessness.

(e) **STAFF TRAINING.**—The Secretary may allow reasonable costs associated with staff training to be included as part of the activities described in subsection (a).

(f) **ELIGIBILITY FOR PERMANENT HOUSING.**—Any project that receives assistance under subsection (a) and that provides project-based or sponsor-based permanent housing for homeless individuals or families with a disability, including projects that meet the requirements of subsection (a) and subsection (d)(2)(A) of section 428 may also serve individuals who had previously met the requirements for such project prior to moving into a different permanent housing project.

(g) **ADMINISTRATION OF RENTAL ASSISTANCE.**—Provision of permanent housing rental assistance shall be administered by a State, unit of general local government, or public housing agency.

SEC. 424. INCENTIVES FOR HIGH-PERFORMING COMMUNITIES.

(a) **DESIGNATION AS A HIGH-PERFORMING COMMUNITY.**—

(1) **IN GENERAL.**—The Secretary shall designate, on an annual basis, which collaborative applicants represent high-performing communities.

(2) **CONSIDERATION.**—In determining whether to designate a collaborative applicant as a high-performing community under paragraph (1), the Secretary shall establish criteria to ensure that the requirements described under paragraphs (1)(B) and (2)(B) of subsection (d) are measured by comparing homeless individuals and families under similar circumstances, in order to encourage projects in the geographic area to serve homeless individuals and families with more severe barriers to housing stability.

(3) **2-year PHASE IN.**—In each of the first 2 years after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall designate not more than 10 collaborative applicants as high-performing communities.

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(4) EXCESS OF QUALIFIED APPLICANTS.—If, during the 2-year period described under paragraph (2), more than 10 collaborative applicants could qualify to be designated as high-performing communities, the Secretary shall designate the 10 that have, in the discretion of the Secretary, the best performance based on the criteria described under subsection (d).

(5) TIME LIMIT ON DESIGNATION.—The designation of any collaborative applicant as a high-performing community under this subsection shall be effective only for the year in which such designation is made. The Secretary, on an annual basis, may renew any such designation.

(b) APPLICATION.—

(1) IN GENERAL.—A collaborative applicant seeking designation as a high-performing community under subsection (a) shall submit an application to the Secretary at such time, and in such manner as the Secretary may require.

(2) CONTENT OF APPLICATION.—In any application submitted under paragraph (1), a collaborative applicant shall include in such application--

(A) a report showing how any money received under this subtitle in the preceding year was expended; and

(B) information that such applicant can meet the requirements described under subsection (d).

(3) PUBLICATION OF APPLICATION.—The Secretary shall—

(A) publish any report or information submitted in an application under this section in the geographic area represented by the collaborative applicant; and

(B) seek comments from the public as to whether the collaborative applicant seeking designation as a high-performing community meets the requirements described under subsection (d).

(c) USE OF FUNDS.—Funds awarded under section 422(a) to a project sponsor who is located in a high-performing community may be used—

(1) for any of the eligible activities described in section 423; or

(2) for any of the eligible activities described in paragraphs (4) and (5) of section 415(a).

(d) DEFINITION OF HIGH-PERFORMING COMMUNITY.—For purposes of this section, the term 'high-performing community' means a geographic area that demonstrates through reliable data that all five of the following requirements are met for that geographic area:

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(1) TERM OF HOMELESSNESS.—The mean length of episodes of homelessness for that geographic area--

(A) is less than 20 days; or

(B) for individuals and families in similar circumstances in the preceding year was at least 10 percent less than in the year before.

(2) FAMILIES LEAVING HOMELESSNESS.—Of individuals and families--

(A) who leave homelessness, fewer than 5 percent of such individuals and families become homeless again at any time within the next 2 years; or

(B) in similar circumstances who leave homelessness, the percentage of such individuals and families who become homeless again within the next 2 years has decreased by at least 20 percent from the preceding year.

(3) COMMUNITY ACTION.—The communities that compose the geographic area have--

(A) actively encouraged homeless individuals and families to participate in homeless assistance services available in that geographic area; and

(B) included each homeless individual or family who sought homeless assistance services in the data system used by that community for determining compliance with this subsection.

(4) EFFECTIVENESS OF PREVIOUS ACTIVITIES.—If recipients in the geographic area have used funding awarded under section 422(a) for eligible activities described under section 415(a) in previous years based on the authority granted under subsection (c), that such activities were effective at reducing the number of individuals and families who became homeless in that community.

(5) FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.—With respect to collaborative applicants exercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, effectiveness in achieving the goals and outcomes identified in subsection 427(b)(1)(F) according to such standards as the Secretary shall promulgate.

(e) COOPERATION AMONG ENTITIES.—A collaborative applicant designated as a high-performing community under this section shall cooperate with the Secretary in distributing information about successful efforts within the geographic area represented by the collaborative applicant to reduce homelessness.

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SEC. 425. [42 USC 11385]. SUPPORTIVE SERVICES.

(a) IN GENERAL.—To the extent practicable, each project shall provide supportive services for residents of the project and homeless persons using the project, which may be designed by the recipient or participants.

(b) REQUIREMENTS.—Supportive services provided in connection with a project shall address the special needs of individuals (such as homeless persons with disabilities and homeless families with children) intended to be served by a project.

(c) SERVICES.—Supportive services may include such activities as (A) establishing and operating a child care services program for homeless families, (B) establishing and operating an employment assistance program, (C) providing outpatient health services, food, and case management, (D) providing assistance in obtaining permanent housing, employment counseling, and nutritional counseling, (E) providing security arrangements necessary for the protection of residents of supportive housing and for homeless persons using the housing or project, (F) providing assistance in obtaining other Federal, State, and local assistance available for such residents (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment), and (G) providing other appropriate services.

(d) PROVISION OF SERVICES.—Services provided pursuant to this section may be provided directly by the recipient or by contract with other public or private service providers. Such services may be provided to homeless individuals who do not reside in supportive housing.

(e) COORDINATION WITH SECRETARY OF HEALTH AND HUMAN SERVICES.—

(1) APPROVAL.—Promptly upon receipt of any application for assistance under this subtitle that includes the provision of outpatient health services, the Secretary of Housing and Urban Development shall consult with the Secretary of Health and Human Services with respect to the proposed outpatient health services. If, within 45 days of such consultation, the Secretary of Health and Human Services determines that the proposal for delivery of the outpatient health services does not meet guidelines for determining the appropriateness of such proposed services, the Secretary of Housing and Urban Development may require resubmission of the application, and the Secretary of Housing and Urban Development may not approve such portion of the application unless and until such portion has been resubmitted in a form that the Secretary of Health and Human Services determines meets such guidelines.

(2) GUIDELINES.—The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining the appropriateness of proposed outpatient health services under this section. Such guidelines shall include any provisions necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this subtitle for the final selection of applications for assistance.

SEC. 426. [42 USC 11386]. PROGRAM REQUIREMENTS.

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(a) **SITE CONTROL.**—The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assistance under section 423(a)(3) or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient or project sponsor fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this subtitle.

(b) **REQUIRED AGREEMENTS.**—The Secretary may not provide assistance for a proposed project under this subtitle unless the collaborative applicant involved agrees—

(1) to ensure the operation of the project in accordance with the provisions of this subtitle;

(2) to monitor and report to the Secretary the progress of the project;

(3) to ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;

(4) to require certification from all project sponsors that—

(A) they will maintain the confidentiality of records pertaining to any individual or family provided family violence prevention or treatment services through the project;

(B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person responsible for the operation of such project;

(C) they will establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, subtitle B of title VII, and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness;

(D) in the case of programs that provide housing or services to families, they will designate a staff person to be responsible for ensuring that children being served in the program are enrolled in school and connected to appropriate services in the community, including early childhood programs such as Head Start, part C of the Individuals with Disabilities Education Act, and programs authorized under subtitle B of title VII of this Act(42 U.S.C. 11431 et seq.); and

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(E) they will provide data and reports as required by the Secretary pursuant to the Act;

(5) if a collaborative applicant is a unified funding agency under section 402(g) and receives funds under subtitle C to carry out the payment of administrative costs described in section 423(a)(11), to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, such funds in order to ensure that all financial transactions carried out with such funds are conducted, and records maintained, in accordance with generally accepted accounting principles;

(6) to monitor and report to the Secretary the provision of matching funds as required by section 430;

(7) to take the educational needs of children into account when families are placed in emergency or transitional shelter and will, to the maximum extent practicable, place families with children as close as possible to their school of origin so as not to disrupt such children's education; and

(8) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.

(c) OCCUPANCY CHARGE.—Each homeless individual or family residing in a project providing supportive housing may be required to pay an occupancy charge in an amount determined by the recipient or project sponsor providing the project, which may not exceed the amount determined under section 3(a) of the United States Housing Act of 1937. Occupancy charges paid may be reserved, in whole or in part, to assist residents in moving to permanent housing.

(d) FLOOD PROTECTION STANDARDS.—Flood protection standards applicable to housing acquired, rehabilitated, constructed, or assisted under this subtitle shall be no more restrictive than the standards applicable under Executive Order No. 11988 (May 24, 1977) to the other programs under this title.

(e) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient or project sponsor to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of the recipient or project sponsor, to the extent that such entity considers and makes policies and decisions regarding any project, supportive services, or assistance provided under this subtitle. The Secretary may grant waivers to applicants unable to meet the requirement under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

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(f) **LIMITATION ON USE OF FUNDS.**—No assistance received under this subtitle (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist homeless persons.

(g) **TERMINATION OF ASSISTANCE.**—If an individual or family who receives assistance under this subtitle (not including residents of an emergency shelter) from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

SEC. 427. SELECTION CRITERIA.

(a) **IN GENERAL.**—The Secretary shall award funds to recipients through a national competition between geographic areas based on criteria established by the Secretary.

(b) **REQUIRED CRITERIA.**—

(1) **IN GENERAL.**—The criteria established under subsection (a) shall include—

(A) the previous performance of the recipient regarding homelessness, including performance related to funds provided under section 412 (except that recipients applying from geographic areas where no funds have been awarded under this subtitle, or under subtitles C, D, E, or F of title IV of this Act, as in effect prior to the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, shall receive full credit for performance under this subparagraph), measured by criteria that shall be announced by the Secretary, that shall take into account barriers faced by individual homeless people, and that shall include—

(i) the length of time individuals and families remain homeless;

(ii) the extent to which individuals and families who leave homelessness experience additional spells of homelessness;

(iii) the thoroughness of grantees in the geographic area in reaching homeless individuals and families;

(iv) overall reduction in the number of homeless individuals and families;

(v) jobs and income growth for homeless individuals and families;

(vi) success at reducing the number of individuals and families who become homeless;

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(vii) other accomplishments by the recipient related to reducing homelessness; and

(viii) for collaborative applicants that have exercised the authority under section 422(j) to serve families with children and youth defined as homeless under other Federal statutes, success in achieving the goals and outcomes identified in section 427(b)(1)(F);

(B) the plan of the recipient, which shall describe—

(i) how the number of individuals and families who become homeless will be reduced in the community;

(ii) how the length of time that individuals and families remain homeless will be reduced;

(iii) how the recipient will collaborate with local education authorities to assist in the identification of individuals and families who become or remain homeless and are informed of their eligibility for services under subtitle B of title VII of this Act (42 U.S.C. 11431 et seq.);

(iv) the extent to which the recipient will—

(I) address the needs of all relevant subpopulations;

(II) incorporate comprehensive strategies for reducing homelessness, including the interventions referred to in section 428(d);

(III) set quantifiable performance measures;

(IV) set timelines for completion of specific tasks;

(V) identify specific funding sources for planned activities; and

(VI) identify an individual or body responsible for overseeing implementation of specific strategies; and

(v) whether the recipient proposes to exercise authority to use funds under section 422(j), and if so, how the recipient will achieve the goals and outcomes identified in section 427(b)(1)(F);

(C) the methodology of the recipient used to determine the priority for funding local projects under section 422(c)(1), including the extent to which the priority-setting process—

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(i) uses periodically collected information and analysis to determine the extent to which each project has resulted in rapid return to permanent housing for those served by the project, taking into account the severity of barriers faced by the people the project serves;

(ii) considers the full range of opinions from individuals or entities with knowledge of homelessness in the geographic area or an interest in preventing or ending homelessness in the geographic area;

(iii) is based on objective criteria that have been publicly announced by the recipient; and

(iv) is open to proposals from entities that have not previously received funds under this subtitle;

(D) the extent to which the amount of assistance to be provided under this subtitle to the recipient will be supplemented with resources from other public and private sources, including mainstream programs identified by the Government Accountability Office in the two reports described in section 203(a)(7);

(E) demonstrated coordination by the recipient with the other Federal, State, local, private, and other entities serving individuals and families experiencing homelessness and at risk of homelessness in the planning and operation of projects;

(F) for collaborative applicants exercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, program goals and outcomes, which shall include—

(i) preventing homelessness among the subset of such families with children and youth who are at highest risk of becoming homeless, as such term is defined for purposes of this title; or

(ii) achieving independent living in permanent housing among such families with children and youth, especially those who have a history of doubled-up and other temporary housing situations or are living in a temporary housing situation due to lack of available and appropriate emergency shelter, through the provision of eligible assistance that directly contributes to achieving such results including assistance to address chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, or multiple barriers to employment; and

(G) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

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(2) **ADDITIONAL CRITERIA.**—In addition to the criteria required under paragraph (1), the criteria established under paragraph (1) shall also include the need within the geographic area for homeless services, determined as follows and under the following conditions:

(A) **NOTICE.**—The Secretary shall inform each collaborative applicant, at a time concurrent with the release of the notice of funding availability for the grants, of the pro rata estimated grant amount under this subtitle for the geographic area represented by the collaborative applicant.

(B) **AMOUNT.**—

(i) **FORMULA.**—Such estimated grant amounts shall be determined by a formula, which shall be developed by the Secretary, by regulation, not later than the expiration of the 2-year period beginning upon the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, that is based upon factors that are appropriate to allocate funds to meet the goals and objectives of this subtitle.

(ii) **COMBINATIONS OR CONSORTIA.**—For a collaborative applicant that represents a combination or consortium of cities or counties, the estimated need amount shall be the sum of the estimated need amounts for the cities or counties represented by the collaborative applicant.

(iii) **AUTHORITY OF SECRETARY.**—Subject to the availability of appropriations, the Secretary shall increase the estimated need amount for a geographic area if necessary to provide 1 year of renewal funding for all expiring contracts entered into under this subtitle for the geographic area.

(3) **HOMELESSNESS COUNTS.**—The Secretary shall not require that communities conduct an actual count of homeless people other than those described in paragraphs (1) through (4) of section 103(a) of this Act (42 U.S.C. 11302(a)).

(c) **ADJUSTMENTS.**—The Secretary may adjust the formula described in subsection (b)(2) as necessary—

(1) to ensure that each collaborative applicant has sufficient funding to renew all qualified projects for at least one year; and

(2) to ensure that collaborative applicants are not discouraged from replacing renewal projects with new projects that the collaborative applicant determines will better be able to meet the purposes of this Act.

SEC. 428. ALLOCATION OF AMOUNTS AND INCENTIVES FOR SPECIFIC ELIGIBLE ACTIVITIES.

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**(a) MINIMUM ALLOCATION FOR PERMANENT HOUSING FOR HOMELESS
INDIVIDUALS AND FAMILIES WITH DISABILITIES.—**

(1) **IN GENERAL.**—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 30 percent of the sums made available to carry out subtitle B and this subtitle, shall be used for permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult or a minor head of household if no adult is present in the household.

(2) **CALCULATION.**—In calculating the portion of the amount described in paragraph (1) that is used for activities that are described in paragraph (1), the Secretary shall not count funds made available to renew contracts for existing projects under section 429.

(3) **ADJUSTMENT.**—The 30 percent figure in paragraph (1) shall be reduced proportionately based on need under section 427(b)(2) in geographic areas for which subsection (e) applies in regard to subsection (d)(2)(A).

(4) **SUSPENSION.**—The requirement established in paragraph (1) shall be suspended for any year in which funding available for grants under this subtitle after making the allocation established in paragraph (1) would not be sufficient to renew for 1 year all existing grants that would otherwise be fully funded under this subtitle.

(5) **TERMINATION.**—The requirement established in paragraph (1) shall terminate upon a finding by the Secretary that since the beginning of 2001 at least 150,000 new units of permanent housing for homeless individuals and families with disabilities have been funded under this subtitle.

**(b) SET-ASIDE FOR PERMANENT HOUSING FOR HOMELESS FAMILIES WITH
CHILDREN.**—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 10 percent of the sums made available to carry out subtitle B and this subtitle for that fiscal year shall be used to provide or secure permanent housing for homeless families with children.

(c) TREATMENT OF AMOUNTS FOR PERMANENT OR TRANSITIONAL HOUSING.—Nothing in this Act may be construed to establish a limit on the amount of funding that an applicant may request under this subtitle for acquisition, construction, or rehabilitation activities for the development of permanent housing or transitional housing.

(d) INCENTIVES FOR PROVEN STRATEGIES.—

(1) **IN GENERAL.**—The Secretary shall provide bonuses or other incentives to geographic areas for using funding under this subtitle for activities that have been proven to be effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

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(2) **RULE OF CONSTRUCTION.**—For purposes of this subsection, activities that have been proven to be effective at reducing homelessness generally or reducing homelessness for a specific subpopulation includes—

(A) permanent supportive housing for chronically homeless individuals and families;

(B) for homeless families, rapid rehousing services, short-term flexible subsidies to overcome barriers to rehousing, support services concentrating on improving incomes to pay rent, coupled with performance measures emphasizing rapid and permanent rehousing and with leveraging funding from mainstream family service systems such as Temporary Assistance for Needy Families and Child Welfare services; and

(C) any other activity determined by the Secretary, based on research and after notice and comment to the public, to have been proven effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

(3) **BALANCE OF INCENTIVES FOR PROVEN STRATEGIES.**—To the extent practicable, in providing bonuses or incentives for proven strategies, the Secretary shall seek to maintain a balance among strategies targeting homeless individuals, families, and other subpopulations. The Secretary shall not implement bonuses or incentives that specifically discourage collaborative applicants from exercising their flexibility to serve families with children and youth defined as homeless under other Federal statutes.

(e) **INCENTIVES FOR SUCCESSFUL IMPLEMENTATION OF PROVEN STRATEGIES.**—If any geographic area demonstrates that it has fully implemented any of the activities described in subsection (d) for all homeless individuals and families or for all members of subpopulations for whom such activities are targeted, that geographic area shall receive the bonus or incentive provided under subsection (d), but may use such bonus or incentive for any eligible activity under either section 423 or paragraphs (4) and (5) of section 415(a) for homeless people generally or for the relevant subpopulation.

SEC. 429. RENEWAL FUNDING AND TERMS OF ASSISTANCE FOR PERMANENT HOUSING.

(a) **IN GENERAL.**—Renewal of expiring contracts for leasing, rental assistance, or operating costs for permanent housing contracts may be funded either—

(1) under the appropriations account for this title; or

(2) the section 8 project-based rental assistance account.

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(b) RENEWALS.—The sums made available under subsection (a) shall be available for the renewal of contracts in the case of tenant-based assistance, successive 1-year terms, and in the case of project-based assistance, successive terms of up to 15 years at the discretion of the applicant or project sponsor and subject to the availability of annual appropriations, for rental assistance and housing operation costs associated with permanent housing projects funded under this subtitle, or under subtitle C or F (as in effect on the day before the effective date of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009). The Secretary shall determine whether to renew a contract for such a permanent housing project on the basis of certification by the collaborative applicant for the geographic area that—

(1) there is a demonstrated need for the project; and

(2) the project complies with program requirements and appropriate standards of housing quality and habitability, as determined by the Secretary.

(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the Secretary from renewing contracts under this subtitle in accordance with criteria set forth in a provision of this subtitle other than this section.

SEC. 430. MATCHING FUNDING.

(a) IN GENERAL.—A collaborative applicant in a geographic area in which funds are awarded under this subtitle shall specify contributions from any source other than a grant awarded under this subtitle, including renewal funding of projects assisted under subtitles C, D, and F of this title as in effect before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided to recipients in the geographic area, except that grants for leasing shall not be subject to any match requirement.

(b) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the residents or clients of a project sponsor by an entity other than the project sponsor may count toward the contributions in subsection (a) only when documented by a memorandum of understanding between the project sponsor and the other entity that such services will be provided.

(c) COUNTABLE ACTIVITIES.—The contributions required under subsection (a) may consist of—

(1) funding for any eligible activity described under section 423; and

(2) subject to subsection (b), in-kind provision of services of any eligible activity described under section 423.

SEC. 431. APPEAL PROCEDURE.

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(a) IN GENERAL.—With respect to funding under this subtitle, if certification of consistency with the consolidated plan pursuant to section 403 is withheld from an applicant who has submitted an application for that certification, such applicant may appeal such decision to the Secretary.

(b) PROCEDURE.—The Secretary shall establish a procedure to process the appeals described in subsection (a).

(c) DETERMINATION.—Not later than 45 days after the date of receipt of an appeal described in subsection (a), the Secretary shall determine if certification was unreasonably withheld. If such certification was unreasonably withheld, the Secretary shall review such application and determine if such applicant shall receive funding under this subtitle.

SEC. 432. [42 USC 11387]. REGULATIONS.

Not later than the expiration of the 90-day period beginning on October 28, 1992, the Secretary shall issue interim regulations to carry out this subtitle, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this subtitle after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of Title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

SEC. 433. [42 USC 11388]. REPORTS TO CONGRESS.

The Secretary shall submit a report to the Congress annually, summarizing the activities carried out under this subtitle and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 4 months after the end of each fiscal year (except that, in the case of fiscal year 1993, the report shall be submitted not later than 6 months after the end of the fiscal year).

SEC. 429. [42 USC 11389]. AUTHORIZATION OF APPROPRIATIONS.

REPEALED.

SUBTITLE D—SAFE HAVENS FOR HOMELESS INDIVIDUALS DEMONSTRATION PROGRAM

REPEALED.

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SUBTITLE E—MISCELLANEOUS PROVISIONS

REPEALED.

**SUBTITLE F—SHELTER PLUS CARE PROGRAM
PART I—GENERAL REQUIREMENTS**

REPEALED.

**TITLE IV—HOUSING ASSISTANCE
SUBTITLE D—RURAL HOUSING STABILITY ASSISTANCE PROGRAM**

SEC. 491. [42 USC 11408]. RURAL HOUSING STABILITY GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish and carry out a rural housing stability grant program. In carrying out the program, the Secretary may award grants to eligible organizations in lieu of grants under subtitle C in order to pay for the Federal share of the cost of—

(1) rehousing or improving the housing situations of individuals and families who are homeless or in the worst housing situations in the geographic area;

(2) stabilizing the housing of individuals and families who are in imminent danger of losing housing; and

(3) improving the ability of the lowest-income residents of the community to afford stable housing.

(b) USE OF FUNDS.—

(1) IN GENERAL.—An eligible organization may use a grant awarded under subsection (a) to provide, in rural areas—

(A) rent, mortgage, or utility assistance after 2 months of nonpayment in order to prevent eviction, foreclosure, or loss of utility service;

(B) security deposits, rent for the first month of residence at a new location, and relocation assistance;

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(C) short-term emergency lodging in motels or shelters, either directly or through vouchers;

(D) construction of new housing units to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness;

(E) acquisition or rehabilitation of a structure to provide supportive services or to provide transitional or permanent housing, other than emergency shelter, to homeless individuals and families and individuals and families at risk of homelessness;

(F) leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, or providing supportive services to such homeless and at-risk individuals and families;

(G) provision of rental assistance to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, such rental assistance may include tenant-based or project-based rental assistance;

(H) payment of operating costs for housing units assisted under this title;

(I) rehabilitation and repairs such as insulation, window repair, door repair, roof repair, and repairs that are necessary to make premises habitable;

(J) development of comprehensive and coordinated support services that use and supplement, as needed, community networks of services, including—

(i) outreach services to reach eligible recipients;

(ii) case management;

(iii) housing counseling;

(iv) budgeting;

(v) job training and placement;

(vi) primary health care;

(vii) mental health services;

(viii) substance abuse treatment;

(ix) child care;

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- (x) transportation;
- (xi) emergency food and clothing;
- (xii) family violence services;
- (xiii) education services;
- (xiv) moving services;
- (xv) entitlement assistance; and
- (xvi) referrals to veterans services and legal services; and

(K) costs associated with making use of Federal inventory property programs to house homeless families, including the program established under title V of the Stewart B. McKinney Homeless Assistance Act and the Single Family Property Disposition Program established pursuant to section 204(g) of the National Housing Act.

(2) CAPACITY BUILDING ACTIVITIES.—Not more than 20 percent of the funds transferred under subsection (1)(1) for a fiscal year may be used by eligible organizations for capacity building activities, including payment of operating costs and staff retention.

(c) AWARD OF GRANTS.—

(1) COMMUNITIES WITH POPULATIONS OF LESS THAN 10,000.—

(A) SET-ASIDE.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall make available not less than 50 percent of the funds transferred under subsection (1)(1) for the fiscal year for grants to eligible organizations serving communities that have populations of less than 10,000.

(B) PRIORITY WITHIN SET-ASIDE.—In awarding grants in accordance with subparagraph (A), the Secretary shall give priority to eligible organizations serving communities with populations of less than 5,000.

(2) COMMUNITIES WITHOUT SIGNIFICANT FEDERAL ASSISTANCE.—In awarding grants under subsection (a), including grants awarded in accordance with paragraph (1), the Secretary shall give priority to eligible organizations serving communities not currently receiving significant Federal assistance under this chapter.

(3) STATE LIMIT.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall not award to eligible organizations within a State an aggregate sum of more than 10 percent of the funds transferred under subsection (1)(1), for the fiscal year.

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(d) APPLICATION.—In order to be eligible to receive a grant under subsection (a), an organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall include, at a minimum—

(1) a description of the target population and geographic area to be served;

(2) a description of the types of assistance to be provided;

(3) an assurance that the assistance to be provided is closely related to the identified needs of the target population;

(4) a description of the existing assistance available to the target population, including Federal, State, and local programs, and a description of the manner in which the organization will coordinate with and expand existing assistance or provide assistance not available in the immediate area;

(5) an agreement by the organization that the organization will collect data on the projects conducted by the organization, including assistance provided, number and characteristics of persons served, and causes of homelessness for persons served;

(6) a description of how individuals and families who are homeless or who have the lowest incomes in the community will be involved by the organization through employment, volunteer services, and otherwise, in providing, operating, and rehabilitating housing assisted under this section and in providing services assisted under this section and services for occupants of housing assisted under this section;

(7) a description of consultations that took place within the community to ascertain the most important uses for funding under this section, including the involvement of potential beneficiaries of the project; and

(8) a description of the extent and nature of homelessness and of the worst housing situations in the community.

(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant under subsection (a) shall include private nonprofit entities and county and local governments.

(f) MATCHING FUNDING.—

(1) IN GENERAL.—An organization eligible to receive a grant under subsection (a) shall specify matching contributions from any source other than a grant awarded under this subtitle, that shall be made available in the geographic area in an amount equal to not less than

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25 percent of the funds provided for the project or activity, except that grants for leasing shall not be subject to any match requirement.

(2) **LIMITATIONS ON IN-KIND MATCH.**—The cash value of services provided to the beneficiaries or clients of an eligible organization by an entity other than the organization may count toward the contributions in paragraph (1) only when documented by a memorandum of understanding between the organization and the other entity that such services will be provided.

(3) **COUNTABLE ACTIVITIES.**—The contributions required under paragraph (1) may consist of—

(A) funding for any eligible activity described under subsection (b); and

(B) subject to paragraph (2), in-kind provision of services of any eligible activity described under subsection (b).

(g) **SELECTION CRITERIA.**—The Secretary shall establish criteria for selecting recipients of grants under subsection (a), including—

(1) the participation of potential beneficiaries of the project in assessing the need for, and importance of, the project in the community;

(2) the degree to which the project addresses the most harmful housing situations present in the community;

(3) the degree of collaboration with others in the community to meet the goals described in subsection (a);

(4) the performance of the organization in improving housing situations, taking account of the severity of barriers of individuals and families served by the organization;

(5) for organizations that have previously received funding under this section, the extent of improvement in homelessness and the worst housing situations in the community since such funding began;

(6) the need for such funds, as determined by the formula established under section 427(b)(2); and

(7) any other relevant criteria as determined by the Secretary.

(h) **EVALUATION.**—

(1) **IN GENERAL.**—Not later than 18 months after funding is first made available pursuant to the amendments made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall conduct an evaluation of the program to—

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(A) determine the effectiveness of the program in meeting the goals described in subsection (a) in the area served; and

(B) determine the types of assistance needed to meet the goals described in subsection (a) in rural areas.

(2) REPORT.—Not later than 24 months after funding is first made available pursuant to the amendment made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall submit to Congress, the evaluation of the program conducted under paragraph (1), including recommendations for any Federal administrative or legislative changes that may be necessary to improve the ability of rural communities to meet the goals described in subsection (a).

(i) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to eligible organizations in developing programs in accordance with this section, and in gaining access to other Federal resources that may be used to assist homeless persons in rural areas. Such assistance may be provided through regional workshops, and may be provided directly or through grants to, or contracts with, nongovernmental entities.

(j) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this section violates requirements of the assistance program provided by the organization receiving a grant under this section, the organization may terminate assistance in accordance with a formal process established by the organization that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

(k) DEFINITIONS.—For purposes of this section:

(1) PROGRAM.—The term “program” means the rural housing stability grant program established under this section.

(2) RURAL AREA; RURAL COMMUNITY.—The terms “rural area” and “rural community” mean—

(A) any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget;

(B) any area or community, respectively, that is—

(i) within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and

(ii) located in a county where at least 75 percent of the population is rural;
or

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(C) any area or community, respectively, located in a State that has population density of less than 30 persons per square mile (as reported in the most recent decennial census), and of which at least 1.25 percent of the total acreage of such State is under Federal jurisdiction, provided that no metropolitan city (as such term is defined in section 102 of the Housing and Community Development Act of 1974) in such State is the sole beneficiary of the grant amounts awarded under this section.

(3) SECRETARY.—The term “Secretary” means the Secretary of Housing and Urban Development.

(1) PROGRAM FUNDING.—

(1) IN GENERAL.—The Secretary shall determine the total amount of funding attributable under section 427(b)(2) to meet the needs of any geographic area in the Nation that applies for funding under this section. The Secretary shall transfer any amounts determined under this subsection from the Community Homeless Assistance Program and consolidate such transferred amounts for grants under this section, except that the Secretary shall transfer an amount not less than 5 percent of the amount available under subtitle C for grants under this section. Any amounts so transferred and not used for grants under this section due to an insufficient number of applications shall be transferred to be used for grants under subtitle C.

(2) AVAILABILITY.—Any amount paid to a grant recipient for a fiscal year that remains unobligated at the end of the year shall remain available to the recipient for the purposes for which the payment was made for the next fiscal year. The Secretary shall take such action as may be necessary to recover any amount not obligated by the recipient at the end of the second fiscal year, and shall redistribute the amount to another eligible organization.

(m) DETERMINATION OF FUNDING SOURCE.—For any fiscal year, in addition to funds awarded under subtitle B, funds under this title to be used in a city or county shall only be awarded under either subtitle C or subtitle D.

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TITLE I—GENERAL PROVISIONS

SECTION 101. [42 U.S.C. 11301 note]. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “McKinney-Vento Homeless Assistance Act”.

(b) TABLE OF CONTENTS.—

[NOTE: Only title IV is listed.]

TITLE IV—HOUSING ASSISTANCE

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SUBTITLE A—GENERAL PROVISIONS

- Sec. 401. Definitions.
- Sec. 402. Collaborative Applicants.
- Sec. 403. Housing affordability strategy.
- Sec. 404. Preventing involuntary family separation.
- Sec. 405. Technical assistance.
- Sec. 406. Discharge coordination policy.
- Sec. 407. Protection of personally identifying information by victim service providers.
- Sec. 408. Authorization of appropriations.

SUBTITLE B—EMERGENCY SOLUTIONS GRANTS PROGRAM

- Sec. 411. Definitions.
- Sec. 412. Grant assistance.
- Sec. 413. Amount and allocation of assistance.
- Sec. 414. Allocation and distribution of assistance.
- Sec. 415. Eligible activities.
- Sec. 416. Responsibilities of recipients.
- Sec. 417. Administrative provisions.
- Sec. 418. Administrative costs.

SUBTITLE C—CONTINUUM OF CARE PROGRAM

- Sec. 421. Purposes.
- Sec. 422. Continuum of care applications and grants.
- Sec. 423. Eligible activities.
- Sec. 424. Incentives for high-performing communities.
- Sec. 425. Supportive services.
- Sec. 426. Program requirements.
- Sec. 427. Selection criteria.
- Sec. 428. Allocation of amounts and incentives for specific eligible activities.
- Sec. 429. Renewal funding and terms of assistance for permanent housing.
- Sec. 430. Matching funding.
- Sec. 431. Appeal procedure.
- Sec. 432. Regulations.
- Sec. 433. Reports to Congress.

**SUBTITLE D—SAFE HAVENS FOR HOMELESS INDIVIDUALS DEMONSTRATION
PROGRAM**

REPEALED.

SUBTITLE E—MISCELLANEOUS PROGRAMS

REPEALED.

SUBTITLE F—SHELTER PLUS CARE PROGRAM

REPEALED.

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SUBTITLE D—RURAL HOMELESS HOUSING ASSISTANCE

Sec. 491. Rural housing stability assistance.

Sec. 492. Use of FMHA inventory for transitional housing for homeless persons and
for turnkey housing.