



Lee County  
*Southwest Florida*

BOARD OF COUNTY COMMISSIONERS  
HUMAN AND VETERAN SERVICES

**U.S. Department of Housing and Urban Development  
Continuum of Care Program**

**HUD Grant # FL0923L4D032201**

**Sub Recipient Contract**

with

**Community Assisted and Supported Living, Inc.**

**October 1, 2023 – September 30, 2024**



CSFA # \_\_\_\_\_  
CFDA # 14.267  
Contract No. \_\_\_\_\_  
Funding Source: U.S. Department  
of Housing and Urban  
Development (HUD)

**STANDARD NONPROFIT/GOVERNMENT CONTRACT  
SUBRECIPIENT CONTRACT BETWEEN  
THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS  
And  
COMMUNITY ASSISTED AND SUPPORTED LIVING INC. (CASL)**

**THIS CONTRACT** between Lee County, a political subdivision and Charter county of the State of Florida, hereinafter referred to as "COUNTY" and Community Assisted & Supported Living, Inc. a Nonprofit Corporation/Government/Municipality registered under the laws of Florida Chapter 617, operating under the laws of the State of Florida and, hereinafter referred to as "PROVIDER" will become effective upon the date approved by the Board of County Commissioners (BOCC).

**WHEREAS, COUNTY** believes it to be in the public interest to provide certain activities to the Lee County residents through the **PROVIDER** according to this Contract, the agency's intent as stated in the proposal and attachments and/or exhibits, and all other terms and conditions as specified.

**NOW THEREFORE**, in consideration of the mutual covenants, promises, and representations contained herein **COUNTY** and the **PROVIDER** agree as follows:

**ARTICLE I: SCOPE OF SERVICES**

This Agreement is governed by title IV of the McKinney-Vento Homeless Assistance Act 42 U.S.C. 1130 I et seq. (the "Act"); the Continuum of Care Program rule (the "Rule"), as amended from time to time; and the Notice of Funds Availability for the fiscal year competition in which the funds were awarded.

As a sub-recipient of funds from the U.S. Department of Housing and Urban Development (HUD) the **PROVIDER** will be responsible for implementing the project in accordance with regulations identified above for homeless adults of Lee County under HUD Grant ID #FL0923L4D032201. Funding will be used to support leasing of a permanent supportive housing facility where units are located in a large multifamily development operated by the subrecipient serving the following specific population focus: Chronic Homeless; Substance Abuse; & Mental Illness. **PROVIDER** will provide rental assistance in connection with supportive services funded through other sources to a minimum of 11 beds, 11 units of which 11 beds are dedicated to the chronically homeless for permanent housing. **PROVIDER** will follow the guidelines of the Housing First Philosophy.

Additional clients should be served based upon available funds. All clients served must meet HUD defined homeless eligibility. Information regarding HUD requirements can be located at: <https://www.hudexchange.info/programs/coc/toolkit/program-components-and-eligible-costs/#rapid-rehousing>

HUD regulations require that the Provider match all grant funds with no less than 25% of funds or in-kind contributions from other sources as stated in Subpart F-Program Requirements, 578.73 Matching Requirements.

Any proposal/application submitted which resulted in this funding award are binding and incorporated herein as a part of this contract including all conditions and projected levels of service.

For federally funded projects, all requirements and conditions as described in Attachment A, Program Guidelines must also be followed.

All projects funded by Department of Housing and Urban Development (HUD) Homeless Assistance Grants must actively participate in the Centralized Intake/Coordinated Assessment process and input data into the Homeless Management Information System (HMIS).

All activities funded with CDBG/HOME funds must benefit persons of income levels at or below 80% of the area median income and as defined in the pertinent program requirements. Subrecipient certifies that the activity carried out under this Agreement will meet the CDBG/HOME income eligibility requirements.

**ARTICLE II:           TERM OF CONTRACT**

This Contract shall begin **October 1, 2023** and end **September 30, 2024**, unless terminated as specified in Article IX, Suspension/Termination.

For unit rate contracts, programs must be operational within 45 days of contract begin date (identified above).

**ARTICLE III:           COMPENSATION AND REPORTS**

**A.       Contract Payment**

The COUNTY will make payments on a reimbursement basis to the PROVIDER and the PROVIDER agrees to accept as full compensation the total amount not to exceed **\$171,458.00**. Payments will be authorized only for work completed and/or services delivered during the term of the contract as stated in ARTICLE II: TERM OF CONTRACT and prior to the payment request date. Documentation of eligible expenses will be provided as stated in ARTICLE III C. Contract Deliverables. Payment is subject to the provisions of ARTICLE III B. Deferred Payment/Return of Funds and ARTICLE IX: SUSPENSION/TERMINATION. Funding is contingent upon the availability of funds.

The COUNTY has agreed to purchase the service(s) listed in Article I. For unit rate contracts, this contract is for the payment of a fixed number of units of service at the fixed unit rate. For line item contracts, this contract is for payment of line item amounts as identified in the approved budget.

<b>Program</b>	<b><u>Line Item:</u> Approved Budget Category</b>	<b><u>Line Item:</u> Annual Budget Amount</b>	<b><u>Line Item:</u> N/A</b>	<b>Total</b>
HUD Continuum of Care - Permanent Supportive Housing Program	Leasing	\$171,458.00	N/A	\$171,458.00
	TOTAL	\$171,458.00		\$171,458.00

For Partnering for Results (PFR) contracts, Lee County will fund no more than 40% of the program’s actual cash expenses. The agency must be able to substantiate receipt of at least 60%

of revenue from other sources or the amount of contract may be reduced. Documentation of expenses may be required at any time during the contract term if the ratio of county funding to program expenses exceeds or is close to exceeding the 40/60% requirement. In addition, Lee

County may not fund program if revenues significantly exceed expenses.

Once funding is approved and a contract issued by Human and Veteran Services (HVS) it must be returned by the agency for execution within 30 days. In addition, funds must begin to be drawn within 60 days of contract execution unless the Contract Coordinator authorizes additional time. Failure to return signed contract or begin spending funds within allocated time frame may result in reduction or forfeiture of funds.

## **B. Deferred Payment/Return of Funds**

The **COUNTY** may defer payment to the **PROVIDER** for noncompliance with contract deliverables or program requirements.

If, as a result of monitoring or audit, units of service provided are not documented a payment may be deferred. If units are found to be unallowable, no future payments will be made until the full amount of overpayment is remitted to the **COUNTY** or a repayment agreement is accepted by **COUNTY**. If the monitoring or audit occurs after the term of this contract, the **PROVIDER** will be required to remit funds to the **COUNTY** in accordance with the repayment conditions below.

The **PROVIDER** agrees to return to the **COUNTY** any overpayments due to funds disallowed pursuant to the terms of this Contract and/or Federal requirements. For contracts funded under the Partnering for Results (local general fund) process, repayment will be required if the amount paid exceeds 40% of program expenses. Such funds shall be considered **COUNTY** funds and must be refunded to the **COUNTY** within thirty (30) days of receiving notice from the **COUNTY** in writing regarding the overpayment. Should repayment not be made in a timely manner, the **COUNTY** will charge interest of one (1) percent per month compounded on the outstanding balance after forty (40) calendar days after the date of notification or discovery. The **PROVIDER** will be required to reimburse the **COUNTY** for any acts of non-compliance resulting in disallowed costs or fines.

## **C. Contract Deliverables**

### **1. Required Reports (checked boxes are applicable)**

**EXHIBIT 1- Payment Request - Due: Monthly by the 20<sup>th</sup> of the following month.** All payments will be **reimbursement** for eligible expenses/services defined as uncompensated expenses rendered during the contract term and paid prior to final payment request due date as indicated in the Contract Closeout Section (Article III 2 D). Copies of supporting documentation is required as part of the Payment Request for review of grant compliance and before payment will be authorized by Human and Veterans Services. **Reimbursement** for eligible expenses will be made after review and authorization of a correct and complete Exhibit 1 and all required back up documentation. Lee County must be payor of last resort, meaning that if services are eligible to be billed to any other entity including but not limited to: Medicaid, third party insurance or any other entity, Lee County will not pay for that service.



Appropriate back-up/supporting documentation may include: cancelled checks, vendor invoices, authorized purchase orders, attendance/service logs, other funder invoices, expenditure spreadsheets or other original documentation, as well as a copy of the PROVIDER'S check issued with authorized signature. Two-sided copies of back-up documentation are preferred. For Construction Contracts, inspection reports from qualified officials should be submitted with the appropriate monthly payment request. For PFR contracts, documentation of expenses may be required as back-up/supporting documentation if the ratio of county funding to program expenses exceeds or is close to exceeding the 40/60% requirement.

The Exhibit 1 (Payment Request) must be submitted with an **authorized** signature and dated. Cancelled checks, bank statements and/or other documentation from vendor that expense has been paid or service provided may be verified during monitoring.

If applicable, processing of payment requests is also subject to requirements and conditions as outlined in Attachment A, Program Guidelines.

**EXHIBIT 2- Program/Demographics/Beneficiary Report – Due: As indicated on Exhibit 2.**

**EXHIBIT 3 – Performance Outcomes Report – Due: As indicated on Exhibit 3.**

**EXHIBIT 4 – Revenue and Expenses Analysis Report – Due: 30 days following the end of each quarter. (Jan 31; April 30; July 31; Oct 31). Documentation to support expenditures and revenue MUST be attached i.e. QuickBooks; Profit/Loss Statement.**

**EXHIBIT 5- Annual Progress Report or Closeout Report- Due as indicated on Exhibit 5 and/or in Section D.**

**EXHIBIT 6 - Certificate of Insurance - Insert in contract.**

**EXHIBIT 7 – Statement of Work – Insert in contract.**

**EXHIBIT 8 - Equipment/Fixed Assets Inventory Form- Due: 30 days from purchase of equipment or fixed assets, and annually on October 1.**

**EXHIBIT 9 - Annual Certification of Continued Operation - Due: As indicated on Exhibit 9.**

**EXHIBIT 10- Current Board of Directors Roster**

All exhibits/reports should be submitted electronically (email or uploaded into database if applicable). An electronic signature or a scanned copy of the report with signature is acceptable for all reports/exhibits including the Exhibit 1 (Payment Request) for which signatures are required.

## 2. Required Documents

Audited Financial Statement and Management Letter for fiscal year(s) in which contract

funds are expended – **Due Date: Non profits - 180 days following the end of PROVIDER’S fiscal year(s); Governments/municipalities - 270 days following the end of fiscal year(s).**

- Monitoring Reports – A copy of monitoring reports issued from other sources that fund any program covered under this contract and copies of **PROVIDER’S** response to the funding agency are due to the **COUNTY** no later than **30 days** after receipt by the **PROVIDER**.

**D. Contract Closeout**

- Partnering for Results: Revenue and Expenses Analysis Report - **Due: 30 days after contract end.**
- Partnering for Results: Final Payment Request – **Due: 4 business days after contract end.**
- Partnering for Results: Close-Out Report – **Due 30 days after contract end.**
- State Mandated: Final Payment Request – **Due: 4 business days after contract end**
- HOME – Close-out package for each property – **Due: 120 days after payment request.**
- Supportive Housing Program and Rental Assistance (COC) – Final Payment Request and Annual Progress Report – **Due: 30 days end date of operating year.**
- CDBG – Final Payment Request and Beneficiary Reports – **Due: 20<sup>th</sup> of the month after term end.**
- Other Funding Source – \_\_\_\_\_  
 Final Closeout Payment Request – **Due:** \_\_\_\_\_

**ARTICLE IV: AUDITS, MONITORING, AND RECORDS**

**A. Monitoring**

The **PROVIDER** agrees to permit persons duly authorized by the **COUNTY** and the Federal or State grantor agency (if applicable) or any representatives to inspect all records, papers, documents, facility's goods and services of the **PROVIDER** and/or interview any clients and employees of the **PROVIDER** to be assured of satisfactory performance of the terms and conditions of this contract to the extent permitted by the law after giving the **PROVIDER** reasonable notice. The monitoring is a limited scope review of the contract and agency management and does not relieve the **PROVIDER** of its obligation to manage the grant in accordance with applicable rules and sound management practices.

Following such monitoring, the **COUNTY** will deliver to the **PROVIDER** a written report regarding the manner in which services are being provided. The **PROVIDER** will rectify all noted deficiencies within the specified period of time indicated in the monitoring report or provide the **COUNTY** with a reasonable and acceptable justification for not correcting the noted shortcomings. The **PROVIDER’S** failure to correct or justify the deficiencies within the time specified by the **COUNTY** may result in the withholding of payments, being deemed in breach or default, or termination of this Contract.

**B. Audits and Inspections**

The **PROVIDER** will make all records referenced in ARTICLE IV C. and all items included on financial statements available for audit or inspection purposes at any time during normal business hours and as often as **COUNTY** deems necessary.

The Clerk of Courts Internal Audit Division, the Federal or State grantor agency (if applicable), Lee County employees, or any of their duly authorized representatives have the right of timely and unrestricted access to any books, documents, papers, or other records of **PROVIDER** or Certified Public Accountant (CPA) that are pertinent to the contract, in order to make audits, examinations, excerpts, transcripts and copies of such documents. If contract noncompliance or material weaknesses in the organization are noted, the **COUNTY** or other authorized representatives have the right to unlimited access to records during an audit or inspection. This includes timely and reasonable access to a **PROVIDER'S** personnel for the purpose of interview and discussion related to such documents.

### C. Records

The **PROVIDER** shall retain all financial, client demographics, and programmatic records, supporting documentation, statistical records, and other records, which are necessary to document service provision, expenditures, income and assets of the **PROVIDER** by funding source, program, and functional expenses category during the term of this contract and a minimum of five (5) years from the date of contract expiration. The retention period may be longer depending on the funding source and it is the **PROVIDER's** obligation to comply with all Federal and State of Florida retention schedules. If any litigation, claim, negotiation, audit, or other action involving the records has been initiated before the expiration of the retention period, the records shall be retained for one (1) year after the final resolution of the action and final resolution of all issues that arise from such action.

**PROVIDER** specifically acknowledges its obligations to comply with §119.0701, F.S., as amended from time to time, with regard to public records, and shall:

- 1) keep and maintain public records that ordinarily and necessarily would be required by the **COUNTY** in order to perform the services required under this Contract;
- 2) upon request from the County's custodian of public records, provide the **COUNTY** with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 Florida Statutes or as otherwise provided by law;
- 3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
- 4) meet all requirements for retaining public records and transfer, at no cost to the **COUNTY**, all public records in possession of **PROVIDER** upon termination of this Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the **COUNTY** in a format that is compatible with the information technology system of the **COUNTY**.

**IF THE PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533-2221, 2115 SECOND STREET, FORT MYERS, FL 33901, <http://www.leegov.com/publicrecords>.**

#### **D. Independent Audit**

A complete independent financial audit of the agency's financial statements in accordance with Generally Accepted Accounting Principles (GAAP) and/or current Generally Accepted Government Auditing Standards (GAGAS) as applicable is required and must include the following:

- auditor's opinion
- requisite reports on internal control and compliance, if required
- management letter addressing internal controls (Note: If there were no items to be addressed, the letter must still be completed and state that no comments were noted.)
- management's response to such letter
- the programs that are funded by this Lee County contract either in the statement of functional expenses, revenues and expenditures, footnotes, schedule of Federal awards and State financial assistance or as supplemental data in the financial statements. The statement should be consistent with programs detailed in the corresponding proposal(s), exhibit(s), and attachment(s).

The audit must be submitted electronically to the **COUNTY** no later than one hundred eighty (180) days following the end of a nonprofit **PROVIDER'S** fiscal year and two hundred seventy (270) days following the end of a government/municipality **PROVIDER'S** fiscal year. If applicable, any corrective action plan must be submitted. Failure to submit the report within the required time frame can result in the withholding of payment, or termination of the contract by the **COUNTY**.

The audit must be conducted by an independent, licensed certified public accountant with an unmodified opinion on their current peer review and must be in accordance with the General Accounting Office (GAO) Yellow Book, Generally Accepted Government Auditing Standards, OMB Circular A-133 "Audits of States, Local Governments and Nonprofit Organizations" if applicable, the Florida Single Audit Act (F.S. 215.97) if applicable, and the Auditor General Rule 10.550 (Government) or 10.650 (Not For Profit) as applicable.

#### **ARTICLE V:        AMENDMENTS**

**PROVIDER** must submit a written request (email is acceptable) for a contract amendment which details the nature of and justification for the requested change and the desired effective date of the change(s). The **COUNTY** reserves the right to approve or deny all contract amendments. An approved amendment shall be documented on the contract amendment form and signed by both parties.

The Department Director may approve amendments to the contract, which do not substantially change the original contracted scope of service and statement of work, including extensions to the end date of the contract as identified in ARTICLE II. The Board of County Commissioners must approve amendments which increase or decrease contract funds; significantly change program design including target population or major changes in outcomes; change or add to the standard provider contract language, which is not for the purpose of correcting original omissions or clarifying original contract intent.

For federally funded projects, HUD must approve (24 CFR 583.405), in writing, any **significant** changes to an approved Homeless Continuum of Care program prior to initiating a contract amendment. Amendments to CDBG, HOME, or ESG which involve new or alteration of existing activities that will significantly change the scope, location, or objectives of the approved activities or beneficiaries must receive prior HUD approval.

## **ARTICLE VI:        CONTRACTOR STATUS**

### **A.        Independent Contractor**

It is the Parties' intention that the **PROVIDER** will be an independent contractor and not the **COUNTY's** employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Florida revenue and taxation law, Florida Worker's Compensation law and Florida Unemployment Insurance Law. The **PROVIDER** will retain sole and absolute discretion in the judgment of the manner and means of carrying out the **PROVIDER'S** activities and responsibilities hereunder. The **PROVIDER** agrees that it is a separate and independent enterprise from the public employer, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the **PROVIDER** and **COUNTY**, and **COUNTY** will not be liable for any obligation incurred by the **PROVIDER**, including, but not limited to, unpaid minimum wages and/or overtime premiums.

### **B.        Subcontracts**

Primary roles and responsibilities of **PROVIDER** cannot be subcontracted. It is mutually agreed that any program component that is subcontracted by **PROVIDER** must have a written contract upon execution of this contract. Provider must provide written notice to the **COUNTY** of all subcontractors as well as provide copies of all contracts entered into with subcontractors upon the **COUNTY's** request. Procurement and/or bidding of non primary roles and responsibilities must be awarded on a fair and non collusive basis and must be in compliance with all applicable Lee County, State of Florida and Federal standards. The **PROVIDER** shall not enter into a transaction with a person or affiliate placed on the Florida Department of Management Services' Convicted Vendor List. For projects and services receiving federal funds, the **PROVIDER** shall also not enter into a transaction with debarred, suspended or ineligible contractors and participants included on the Federal Excluded Parties List. The **PROVIDER** must ensure each subcontractor conforms to the terms and conditions of this contract and if applicable Attachment A, Program Guidelines and must be subject to indemnification as stated in Article VIII.

## **ARTICLE VII:        CONFLICT OF INTEREST**

The **PROVIDER** agrees that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required in this contract. The **PROVIDER** further agrees that no person having any such interest shall be employed or engaged for said performance. The **PROVIDER** agrees that no employee, officer, agent of the provider or its sub-recipients shall participate in the selection, award or administration of a contract or construction bid if a conflict-of-interest, either real or implied, would be involved. The **PROVIDER** or sub-recipient employees, officers and agents should refrain from accepting gratuities, favors or anything of monetary value from contractors or potential contractors based on the understanding that the receipt of such an item of value would influence any action or judgment of the **PROVIDER**.

For federally-funded contracts, conflict of interest provisions described in 2 CFR 200.112 and all other HUD regulations currently in effect and as may be amended from time to time shall apply.



## **ARTICLE VIII: RISK MANAGEMENT**

### **A. Hold Harmless and Indemnity Clause**

To the fullest extent permitted by applicable law, **PROVIDER** shall protect, defend, indemnify, save and hold the **COUNTY**, the Board of County Commissioners, its agents, officials, and employees harmless from and against any and all claims, demands, fines, loss or destruction of property, liabilities, damages, for claims based on the negligence, misconduct, or omissions of the **PROVIDER** resulting from the **PROVIDER'S** work as further described in this contract and its attachments, which may arise in favor of any person or persons resulting from the **PROVIDER'S** performance or non-performance of its obligations under this contract except any damages arising out of personal injury or property claims from third parties caused solely by the negligence, omission(s) or willful misconduct of the **COUNTY**, its officials, commissioners, employees or agents, subject to the limitations as set out in Florida general law, Section 768.28, Florida Statutes, as amended from time to time. Further, **PROVIDER** hereby agrees to indemnify the **COUNTY** for all reasonable expenses and attorney's fees incurred by or imposed upon the **COUNTY** in connection therewith for any loss, damage, injury, liability or other casualty. **PROVIDER** additionally agrees that the **COUNTY** may employ an attorney of the **COUNTY'S** own selection to appear and defend any such action, on behalf of the **COUNTY**, at the expense of the **PROVIDER**. The **PROVIDER** further agrees to pay all reasonable expenses and attorney's fees incurred by the **COUNTY** in establishing the right to indemnity.

The **PROVIDER** further agrees that it is responsible for any and all claims arising from the hiring of individuals relating to activities provided under the Contract. All individuals hired are employees of the **PROVIDER** and not of the **COUNTY**.

### **B. Insurance Requirements**

#### **Insurance – Nonprofit Providers**

The **PROVIDER** agrees to secure and maintain the insurance coverage outlined below during the term of this Contract. The **PROVIDER** agrees that this insurance requirement shall not relieve or limit **PROVIDER'S** liability and that the **COUNTY** does not in any way represent that the insurance required is sufficient or adequate to protect the **PROVIDER'S** interests or liabilities, but are merely minimums. It is the responsibility of the **PROVIDER** to insure that all subcontractors comply with the insurance requirements.

Certificate(s) of Insurance **naming Lee Board of County Commissioners as Certificate Holder and additional insured** will be attached to this contract as an exhibit. Name and address for Certificate Holder should be: Lee Board of County Commissioners, P.O. Box 398, Fort Myers, FL 33902. Certificate(s) must be provided for the following coverage's at the time of contract execution and upon policy renewal. Renewal certificates are due to Lee County on or before expiration date.

1. **Workers' Compensation**– Statutory benefits as defined by Florida Statute 440 encompassing all operations contemplated by this contract or agreement to apply to all owners, officers, and employees. Employers' liability will have minimum limits of:  
\$100,000 per accident  
\$500,000 disease limit  
\$100,000 disease limit per employee

2. **Commercial General Liability** – Coverage shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability, and broad form property damage exposures with minimum limits of:
  - \$500,000 bodily injury per person (BI)
  - \$1,000,000 bodily injury per occurrence (BI)
  - \$500,000 property damage (PD) or
  - \$1,000,000 combined single limit (CSL) of BI and PD

The General Liability Policy Certificate shall name "**Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials**" as "**Additional Insured**". The **PROVIDER** agrees that the coverage granted to the Additional Insured applies on a primary basis, with the Additional Insured's coverage being excess.

3. **Business Auto Liability** – The following Automobile Liability will be required and coverage shall apply to all owned, hired, and non-owned vehicles used with minimum limits of:
  - \$100,000 bodily injury per person (BI)
  - \$300,000 bodily injury per occurrence (BI)
  - \$100,000 property damage (PD) or
  - \$300,000 combined single limit (CSL) of BI and PD
4. **Directors & Officers Liability** – Entity coverage to cover claims against the organization directly for wrongful acts with limits not less than \$100,000.
5. **Fidelity Bonding** – Covering all employees who handle the agency's funds. The bond amount must be equivalent to the highest daily cash balance or a minimum amount of \$50,000.

#### **Insurance – Government/Municipality**

Documentation of the above coverage requirements are not applicable to government/municipalities that are self-insured.

#### **C. Notice of cancellation or modification**

The **COUNTY** will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance. Such notification will be in writing by registered mail, return receipt requested and addressed to the Lee County Risk Manager, P. O. Box 398, Ft. Myers, FL 33902.

### **ARTICLE IX: SUSPENSION/TERMINATION**

#### **A. Suspension**

The **COUNTY** reserves the right to suspend funding for failure to comply with the requirements of this contract. Agencies that fail to submit required documents by the due date can be suspended, and payment will be withheld until all requirements are satisfied.

In the event **PROVIDER** ceases operation for any reason or files for protection from creditors under bankruptcy law, any remaining unpaid portion of this Contract, less funds for expenditures already incurred, shall be retained by the **COUNTY** and the **COUNTY** shall have

no further funding obligation to the **PROVIDER** with regard to those unpaid funds.

For contracts funded under “Partnering for Results”: If anticipated Program revenue from other sources exceeds expenses by 40%, **COUNTY** reserves the right to suspend contract until final expenses/revenue is confirmed.

**B. Termination by COUNTY**

The **COUNTY** may at any time and for any reason cancel this Contract by giving twenty-four (24) hours written notice to the **PROVIDER** by Certified Mail, Process Server or Hand Delivery following a determination by the County Manager or designee, at its sole discretion, that such cancellation is in the best interest of the people of the county. From the date of cancellation, neither party shall have any further obligation unless specified in the termination notice.

If the financing for this project is contingent upon funding sources other than Lee County as identified in the proposal/application of the contract and such funds become unavailable the obligations of each party hereunder may be terminated upon no less than twenty-four (24) hours written notice.

For contracts funded under “Partnering for Results”: If confirmed Program revenue from other sources exceeds expenses by 40%, **COUNTY** reserves the right to terminate contract upon no less than twenty four (24) hours written notice.

For unit rate contracts, if program is not operational within 45 days from contract start date, funds for said program will be withdrawn and contract will be amended or terminated.

**C. Termination by PROVIDER**

The **PROVIDER** may at any time and for any reason cancel this Contract by giving seventy-two (72) hours prior written notice to the **COUNTY** by Certified Mail or Process Server of such and specifying the effective date.

**COUNTY'S** obligation to make any payments under any provision of this Contract shall cease on the effective date of termination.

**ARTICLE X:            ASSURANCE, CERTIFICATIONS, AND COMPLIANCE**

The **PROVIDER** agrees that compliance with these assurances and certifications constitutes a condition of continued receipt of or benefit from funds provided through this Contract, and that it is binding upon the **PROVIDER**, its successors, transferees, and assignees for the period during which services are provided.

**IMMIGRATION LAWS:**

The **COUNTY** will not intentionally award contracts to any provider/contractor/vendor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324 a(e) Section 274A(e) of the Immigration and Nationality Act (INA).

The **COUNTY** shall consider the employment by any **PROVIDER** of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of the contract by The **COUNTY**.

**OTHER REQUIREMENTS:**

The **PROVIDER** further assures that all contractors, subcontractors, or others with whom it arranges to provide services or benefits to participants or employees in connection with any of its programs and activities are not discriminating against those participants or employees in violation of statutes, regulations, guidelines and standards. By acceptance of this funding, the **PROVIDER** assures and certifies the following:

- A. That they will comply with all applicable laws, ordinances, and regulations of the United States, the State of Florida, the **COUNTY**, and the municipalities as said laws, ordinances, and regulations exist and are amended from time to time. In entering into this contract, the **COUNTY** does not waive the requirements of any **COUNTY** or local ordinance or the requirements of obtaining any permits or licenses that are normally required to conduct business or activity contemplated by the **PROVIDER**.
- B. That they will comply with all applicable Federal, State and local anti-discrimination laws pertaining to nondiscrimination in programs receiving Federal financial assistance, including but not limited to:
  - **Title VI of the Civil Rights Act of 1964**, as amended, and its implementing regulations – including that recipients/grantees of federal financial assistance are required to take reasonable steps to ensure meaningful access to persons who are Limited English Proficiency (LEP), as per Executive Order 13166.
  - **Section 109 - Title I of the Housing & Community Development Act of 1974**
  - **Section 504 of the Rehabilitation Act of 1973** (29 U.S.C. 794)
  - **Age Discrimination Act of 1975** (42 U.S.C. 610 et. seq.)
  - **Fair Housing Act**

Additional information can be accessed at the following websites:

- [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/FHLaws](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws)
- [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp)
- [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/promotingfh/lep-mfh-faq](https://www.hud.gov/program_offices/fair_housing_equal_opp/promotingfh/lep-mfh-faq)

These requirements are designed to prevent discrimination in the delivery of benefits and services because of race, color, religion (creed), sex, national origin, age, familial status or disability. Affirmative marketing plans and use of universal design features for construction and rehabilitative projects should be incorporated when possible.

All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logotype, statement, or slogan as a means of educating the home seeking public that the property is available to all persons regardless of race, color, religion, sex, handicap, familial status, or national origin. The choice of logotype, statement or slogan will depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement. Different styles/types/sizes of logos and information regarding brochures and can be located at the following website:

<http://portal.hud.gov/hudportal/HUD?src=/library/bookshelf/1/hudgraphics/fheologo>

- C. That they will comply with the Americans with Disabilities Act of 1990 (“ADA”) (as codified at U.S.C 42.126 (sections 12101-12213) and 28CFR35, which gives civil rights

protections to individuals with disabilities, guaranteeing equal opportunity for individuals with disabilities in employment, public accommodations, transportation, State and local government services, and telecommunications. A Single-Point-of-Contact shall be required if the agency employs 15 or more employees. The Single-Point-of-Contact will ensure effective communication with deaf or hard-of-hearing customers or companions in accordance with Section 504 and the ADA and coordinate activities and reports with the **PROVIDER's** Single-Point-of-Contact.

- D. That they will administer their programs under procedures, supervision, safeguards, and such other methods as may be necessary to prevent fraud and abuse, and that it will target its services to those who most need them.
- E. That if clients are to be transported under this contract, the **PROVIDER** will comply with the provisions of Chapter 427, Florida Statutes, which requires the coordination of transportation for the disadvantaged.
- F. That any products or materials purchased with contract funds shall be procured in accordance with the provisions of Chapter 403.7065, Florida Statutes, which refers to the procurement of products or materials with recycled content.
- G. That they will comply with Chapter 39.201, Florida Statutes, that any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).
- H. That they will comply with Chapter 415.1034, Florida Statutes, that any person who knows or has reasonable cause to suspect that a vulnerable and or disabled adult has been abused, neglected, or exploited, shall immediately report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).
- I. That if personnel in programs under this contract work directly with children/youths and vulnerable or disabled adults, the **PROVIDER** will comply with applicable provisions under Florida Statutes 943.0542; 943.04351; 393.0655; 402, regarding employment screening.
- J. That they will comply with Chapter 216.347, Florida Statutes, which prohibits the expenditure of contract funds for the purpose of lobbying the legislature, State or county agencies.
- K. That they will notify the **COUNTY** immediately of any funding source changes and/or additions from other sources that are different from that shown in the **PROVIDER'S** application/proposal. This notification must include a statement as to how this change in funding affects provision of service as well as the use of and continued need for **COUNTY** funds.
- L. That they will acknowledge support for activities funded wholly or in part by **COUNTY** funds. In publicizing, advertising, or describing the program, state "Funding provided by Lee Board of County Commissioners".
- M. That they will notify the **COUNTY** of any **SIGNIFICANT** changes to the **PROVIDER**



organization to include Board Membership (roster), Articles of Incorporation and Bylaws within ten (10) working days of the effective date.

- N. For federally funded programs, that they will comply with applicable uniform administrative requirements as described in 2 CFR Part 200 and all other established, applicable HUD regulations as now in effect and as may be amended from time to time.
- O. The **PROVIDER** shall ensure that Lee County funds are restricted to people legally able to reside in the US.
- P. The **PROVIDER** is prohibited from using contracted funds for the following: political activities; lobbying; political patronage; nepotism activities; and inherently religious activities such as worship, religious instruction, or proselytization.
- Q. The **PROVIDER** must verify employment eligibility of all new employees hired during the contract term through the U.S. Department of Homeland Security's E-Verify system.

#### **ARTICLE XI HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)**

Lee County, pursuant to the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a "covered entity" as the law defines that term. Any "personal health information" (PHI) as defined by the law that the **COUNTY** receives pursuant to this Agreement is subject to the disclosure and security requirements of HIPAA. Transfer of information to the **COUNTY** sufficiently "de-identified" to no longer be considered PHI is encouraged as being in the best interest of client PHI confidentiality to the extent that client services are unaffected. Particular methods to accomplish the highest levels of client service coupled with PHI confidentiality shall be an ongoing task of the affected staffs of the **COUNTY** and **PROVIDER**.

#### **ARTICLE XII: CONTRACT DISPUTE RESOLUTION PROCEDURE**

Any dispute between the parties with respect to provisions contained in a Lee County Human and Veteran Services contract or issues that arise pertinent to a contract shall be resolved as follows:

The parties may, by mutual agreement, attempt to resolve their dispute in the following manner within a thirty (30) day period. If both parties are in agreement, the thirty (30) day time period can be extended for an additional ten days.

- a. Duly authorized representatives shall meet as often as mutually agreeable to discuss in good faith the dispute and to negotiate a mutually agreeable resolution. Authorized representatives for HVS include Contract Coordinator, and Program Manager.
- b. During the course of the dispute process requests made by one Party to the other for non-privileged information, reasonably related to the dispute shall be responded to in good faith.
- c. If the dispute is unable to be resolved between the authorized representatives within the specified time period, it will be forwarded to the Department Director for resolution. A decision by the Director will be issued within ten days.
- d. If the dispute remains unresolved after the Department Director's decision, the parties may proceed to litigation. Any dispute, action or proceeding arising out of or related to this Agreement will be exclusively commenced in the state courts of Lee County, Florida, or where proper subject matter jurisdiction exists in the United States District Court for the Middle District of Florida. Each party irrevocably submits and waives any objections to the exclusive personal jurisdiction and venue of

such courts, including any objection based on forum non conveniens. This Agreement and the rights and obligations of the parties shall be governed by the laws of the State of Florida without regard to its conflict of laws principles. Unless otherwise agreed in writing, **PROVIDER** will be required to continue all obligations under this Agreement during the pendency of claim or dispute including, but not limited to, actual period of mediation or judicial proceedings.

- e. Either Party may at any time commence formal court proceedings, which shall be immediately communicated, and will end the informal Dispute Resolution process as described in paragraph a-c above.

**ARTICLE XIII:                  NOTICES**

Official notices concerning this Contract will be directed to the following authorized representatives:

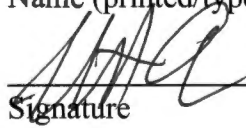
**PROVIDER:**

Name: J. Scott Eller  
 Title: Chief Executive Officer  
 Agency: CASL, Inc.  
 Address: 2911 Fruitville Rd.  
           Sarasota, FL 34237  
 Telephone: (941) 225-2373  
 Fax: (941) 366-0033  
 E-Mail: scott.eller@caslinc.org

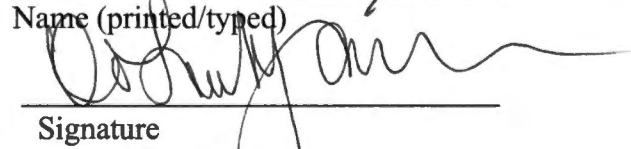
**COUNTY:**

Name: Attn: Clara Sanchez  
 Title: Contract Coordinator  
 Agency: Human and Veteran Services  
 Address: 2440 Thompson Street  
           Fort Myers, Florida 33901  
 Telephone: (239) 533-7935  
 Fax: (239) 533-7960  
 E-Mail: csanchez2@leegov.com

The signatures of the **two** persons shown below are designated and authorized to sign all applicable reports:

J. Scott Eller  
 Name (printed/typed)  
  
 Signature  
CEO

OR

Vickie Tintyama  
 Name (printed/typed)  
  
 Signature  
CEO

Title

Title

In the event that Provider designates different representatives after execution of this contract, notice of the name and address of the new representative will be rendered in writing by authorized officer of **PROVIDER** to the **COUNTY**.

**ARTICLE XIV:          SPECIAL PROVISIONS**

If needed, **PROVIDER** may be called upon to assist the **COUNTY** during a natural disaster or emergency. This includes the use of the **PROVIDER'S** facility to assist with Emergency Food Stamp preregistration if facility is operational and computer terminals are available. **PROVIDER** will be responsible to notify United Way 211 immediately after a disaster declaration if the location is accessible and operational and of any **PROVIDER** staff who are available to assist with recovery efforts.

**ARTICLE XV: ALL TERMS AND CONDITIONS INCLUDED**

This contract and its attachments, and any exhibits referenced in said attachments, together with any documents incorporated by reference, contain all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions, or obligations other than those contained herein, and this contract shall supersede all previous communications, representations, or agreements, either verbal or written between the parties. If any term or provision of this contract is legally determined unlawful or unenforceable, the remainder of the contract shall remain in full force and effect and such terms or provisions shall be stricken.

IN WITNESS THEREOF, PROVIDER and COUNTY have caused this 16-page contract and all Contract Exhibits and Attachments as indicated on next page to be executed by their undersigned officials as duly authorized.

**PROVIDER:**

By: J. Scott Eller  
Name (print)

[Signature]  
(Signature of authorized officer)

CEO  
Title

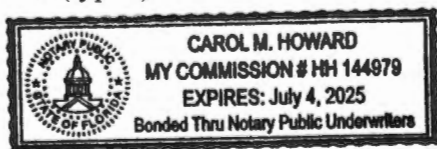
01/04/2024  
Date

STATE OF FLORIDA  
COUNTY OF Sarasota

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, this 4<sup>th</sup> day of January, 2024 year, by J. Scott Eller who is personally known to me or who has produced \_\_\_\_\_ as identification and who  did  did not take an oath.

NOTARY: [Signature]  
By: \_\_\_\_\_  
Notary of Public (Signature)

Carol M. Howard  
Name (typed)



**COUNTY: LEE COUNTY**

By: Mike Greenwell  
Name (print)

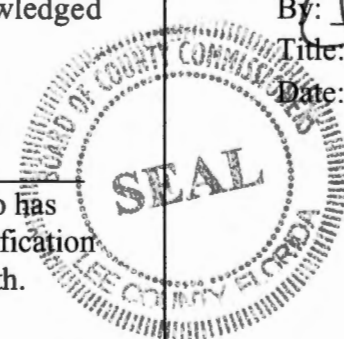
[Signature]  
(Signature of authorized officer)

Board of County Commissioners - CHAIR  
Title

1/16/2024  
Date

ATTEST:  
CLERK OF CIRCUIT COURT

By: [Signature]  
Title: Deputy Clerk  
Date: 01.17.2024



APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY:  
By: [Signature]

Date: 01-12-24  
OFFICE of the COUNTY ATTORNEY

Lee County Human and Veteran Services

CONTRACT EXHIBITS & ATTACHMENTS

*Applicable items are checked. If item is not checked, it does not apply to this contract.*

EXHIBITS (Required Reports/Documentation):

- |                                     |            |   |
|-------------------------------------|------------|---|
| <input checked="" type="checkbox"/> | Exhibit 1  | Payment Request                             |
| <input checked="" type="checkbox"/> | Exhibit 2  | Beneficiary Report                          |
| <input type="checkbox"/>            | Exhibit 3  | Construction Progress Report                |
| <input type="checkbox"/>            | Exhibit 4  | Unit Cost Analysis Report                   |
| <input checked="" type="checkbox"/> | Exhibit 5  | Annual Progress Report or Closeout Report   |
| <input checked="" type="checkbox"/> | Exhibit 6  | Certificates of Insurance                   |
| <input checked="" type="checkbox"/> | Exhibit 7  | Statement of Work                           |
| <input type="checkbox"/>            | Exhibit 8  | Declaration of Restrictive Covenant         |
| <input type="checkbox"/>            | Exhibit 9  | Annual Certification of Continued Operation |
| <input checked="" type="checkbox"/> | Exhibit 10 | Board of Directors Roster                   |

ATTACHMENTS

- ATTACHMENT A – HUD Grant Agreement
- ATTACHMENT B – CoC Written Standards
- ATTACHMENT C – Department of Housing & Urban Development  
Federal Register

# EXHIBIT 1 PAYMENT REQUEST Line Item Contract

Mail to: Lee County Human and Veteran Services  
 ATTN: Clara Sanchez  
 2440 Thompson Street  
 Fort Myers, FL 33901  
 Phone: 239 533-7935  
 FAX: 239 533-7960  
 E-Mail: csanchez2@leegov.com

Contract No. \_\_\_\_\_  
 CASL PSH Leasing Program  
 GRANT ID FL0923L4D032201  
 Expenditures for period:  
 \_\_\_/\_\_\_/\_\_\_  
 Check appropriate line:  
 \_\_\_\_\_ Regular Reimbursement  
 \_\_\_\_\_ Final Reimbursement

Community Assisted & Supported Living dba  
 Agency: Renaissance Manor  
 Mailing Address: 2911 Fruitville Road  
 City/State/Zip Sarasota, FL 34237  
Ph. (941) 225-2373  
Cell (941) 928-1814  
Fax (941) 366-0033

Reports are due by the twentieth calendar day after the end of the reporting period.

A. Approved Budget Categories (see attached detail)	B. Approved Annual Budget Amount	C. Balance Forward end of prior month	D. Total Paid Expenditures for Reporting Period	E. Remaining Balance End of Reporting Period (Col. C-D)	F. Total Match Expenditures End of Prior Month	G. Total Match Expenditures for Reporting Period	H. Total Match Expenditures Year to Date (Column F+G)
PERMANENT SUPPORTIVE HOUSING - LEASING	\$ 171,458.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total:</b>	<b>\$ 171,458.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

PROVIDER: By signing below, I certify that the work and/or services provided and reported in Exhibit 1 are for uncompensated expenses/units, and have been completed and/or delivered to the best of my knowledge. I further attest that payment has been made in accordance with all applicable statutes, regulations and approved County contract. I understand that knowingly providing false information could result in investigation and prosecution.

Signature of Authorized Official: \_\_\_\_\_

Date Approved: \_\_\_\_\_

**FOR LEE COUNTY USE ONLY**

By signing below, I certify that to the best of my knowledge and abilities, the work and/or services provided have been inspected, monitored or reviewed and appear to be in compliance with all applicable statutes, regulations, and approved County contract.

Authorized by: \_\_\_\_\_

Approved Amount: \_\_\_\_\_

Date Approved: \_\_\_\_\_



EXHIBIT 2  
MONTHLY  
PROGRAM/DEMOGRAPHICS/BENEFICIARY REPORT

**PROVIDER NAME:** CASL, Inc.

**PROGRAM:** Permanent Supportive Housing - Leasing

**HUD AGREEMENT #:** FL0923L4D032201 **DUE:** 20<sup>TH</sup> OF EACH MONTH

---

Input and submit demographic and program information on a monthly basis in the Client Services Network (CSN), the designated Homeless Management Information System (HMIS) as required of all HUD CoC funded programs.

**Generate the Active Clients No Names Report with CSN client ID number, entry dates, and exit dates if applicable; submit with Exhibit 1 (payment request) on a monthly basis.** Reports are not to contain sensitive information such as client names and social security numbers.

All payment back up documentation pertaining to a specific client is to include the client CSN ID number in place of client name or social security number. Client names and/or social security numbers must be redacted in supporting documentation.

EXHIBIT 5  
ANNUAL PROGRESS REPORT (APR)

**PROVIDER NAME:** CASL Inc

**PROGRAM:** Permanent Supportive Housing - Leasing

**HUD GRANT #:** FL0923L4D032201

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HUD requires each Continuum of Care (CoC) to utilize a Homeless Management Information System (HMIS) to collect client-level data and data on the provision of housing and services to homeless individuals and families. Lee County uses the Client Services Network (CSN) software program to collect this data. CASL will utilize CSN to collect client-level data/demographics for individuals and families referred to or entering the agency. All data is to be entered on a regular and ongoing (minimum of monthly) basis for all program participants.

The information input into CSN throughout the contract term will be utilized to generate the APR at the end of the contract. Final CSN data input is to be completed within 30 days after contract expiration, October 31, 2024. The following financial summary and program narrative form is to be completed by the agency and due December 31, 2024.

The CoC APR Guidebook for CoC Grant-Funded Programs is available for additional guidance at; [www.hudexchange.info/e-snaps/guides/apr/](http://www.hudexchange.info/e-snaps/guides/apr/)

# EXHIBIT 5 ANNUAL PROGRESS REPORT (APR)

EXHIBIT 5 ANNUAL PROGRESS REPORT (APR)	
<b>APR FOR PROGRAM CONTRACT #</b>	
<b>AWARD (Contract ) PERIOD:</b>	
<b>Q.28 FINANCIAL INFORMATION/TOTAL EXPENDITURES FOR THE GRANT PERIOD</b>	
<b>SUPPORTIVE SERVICES</b>	
Assessment of Service Needs	
Moving Costs	
Case Management	
Child Care	
Education Services	
Employment Assistance	
Food	
Housing/Counseling Services	
Legal Services	
Life Skills	
Mental Health Services	
Outpatient Health Services	
Outreach Services	
Substance Abuse Treatment Services	
Transportation	
Utility Deposits	
<b>Supportive Services Subtotal</b>	\$ -
<b>LEASING, RENTAL ASSISTANCE, OPERATING</b>	
Short/Medium Term Rental Assistance (RRH)	
Long Term Rental Assistance	
Operating Costs	
<b>Subtotal</b>	\$ -
<b>ADMINISTRATION</b>	
Agency	
DHVS	
<b>Subtotal Admin</b>	\$ -
<b>TOTAL EXPENDITURES</b> \$ -	
<b>MATCH (figure reported on final pmt request)</b>	
Cash Match	Match % Met
In-Kind Match	
<b>Total Match</b> \$ -	#DIV/0!
<b>Q29. Performance - Accomplishment</b>	
Please describe any significant accomplishments achieved by your program during the operating year. Requires Narrative.	
<b>Q30. Additional Comments</b>	
Please provide any additional comments on other areas of the APR that need explanations, such as a difference in anticipated & actual program outputs or bed utilization.	

EXHIBIT 6  
CERTIFICATES OF INSURANCE

Insert Certificates of Insurance naming  
***Lee County Board of County Commissioners***

as

**Certificate Holder**

as required in Article VIII of the Contract, for the following  
policies:

- Worker's Compensation
- General Liability
- Business Auto Liability
- Directors & Officers Liability
- Fidelity Bonding

The General Liability Policy Certificate must name

***"Lee County, a political subdivision and Charter  
County of the State of Florida, its agents, employees,  
and public officials"***

as

**"Additional Insured".**

**NOTE: For Government/Municipality**

Documentation of the above coverage requirements is not applicable to government/municipalities that are self insured.







**ADDITIONAL REMARKS SCHEDULE**

AGENCY Atlas Insurance Agency		NAMED INSURED Community Assisted & Supported Living Inc. 2911 Fruitville Road Sarasota FL 34237	
POLICY NUMBER			
CARRIER	NAIC CODE	EFFECTIVE DATE:	

**ADDITIONAL REMARKS**

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**  
**FORM NUMBER:** 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

for Funding Sources is granted if required by written contract per Human Services Liability Endorsement Form CG7308 (ED. 9-13); Additional Insured status for State or Political Subdivisions is granted if required by written contract per Human Services Liability Endorsement Form CG-7308 (ED. 9-13); Additional Insured status for Medical Directors and Administrators is granted if required by written contract per Human Services Liability Endorsement Form CG-7308 (ED. 9-13); Additional Insured status for Lessor of Leased Equipment is granted if required by written contract per Human Services Liability Endorsement Form CG-7308 (ED. 9-13).

\*Waiver of Subrogation is granted with respects to General Liability if required by written contract per "Human Services Liability Endorsement" Form CG7308 (09-13).

Commercial Automobile: Additional Insured status is granted if required by written contract, permit or agreement per Commercial Auto Broad Form Endorsement Form CA7360 0217.

Human Services Enhancement Endorsement Included

\*\* Supplemental Names \*\*

First Supplemental Name applies to all policies:  
 Community Assisted and Supported Living Inc., dba Renaissance Manor  
 Community Affordable and Supported Living, Inc.

RE: 461 Van Buren Street Fort Myers, FL 33916

Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials will be included as Additional Insured as required by written contract, but limited to the operations of the insured under said contract, with respect to General Liability.

**EXHIBIT 7**  
**STATEMENT OF WORK-PROGRAM DESCRIPTION**

**PROVIDER (SUBRECIPIENT) NAME:** Community Assisted & Supported Living, Inc. (CASL)

**PROGRAM:** PERMANENT SUPPORTIVE HOUSING - LEASING

**HUD Continuum of Care GRANT No.:** FL0923L4D032201

*The activities and services being provided by the sub recipient are explained and defined in the corresponding Project Application completed by the sub-recipient and submitted to HUD in the Lee County CoC application. The following information was extracted and summarized from the application and the Lee County CoC Governing Board Written Standards. Any Further information regarding the statement of work and program details can be found in the agency application to HUD and the Lee County CoC Written Standards and Coordinated Entry Policies and Procedures..*

**I. PROJECT DESCRIPTION – Located at 3b of HUD Application**

This project will increase the number of permanent supportive housing units from 21 to 32, increasing the overall amount of dedicated PSH units within Lee County by an additional 11 units. CASL is conducting feasibility estimates for applying with FHFC for additional LIHTC developments to serve homeless and chronically homeless individuals within Lee County. Leveraging funding available through the local funding sources will help to build momentum for future large-scale development projects to address the homelessness crisis that Lee County faces. CASL's goal is to provide additional permanent supportive housing units to persons who are chronically homeless and have a disabling condition. For the duration of their residency in CASLs PSH, all residents have an assigned case manager, if they so wish, who is available to help clients meet goals, resolve challenges, barriers and obstacles, and access outside resources and additionally assists with issues such as; literacy skills, job/volunteer search skills, accessing government benefits, budgeting skills, healthcare access, transportation, community services, crisis intervention, finding clothing resources, computer skills, nutrition, social skills, hygiene management, security management, safety management and housekeeping skills.

Funding will be used to support a permanent supportive housing facility where units are located in a large multifamily development operated by the subrecipient serving the following specific population focus: Chronic Homeless; Substance Abuse; & Mental Illness. CASL will follow the guidelines of the Housing First Philosophy, participants are not screened out based on having too little income, an active or history of substance use, and/or history of victimization. Funding will provide rental assistance to help residents maintain permanent supportive housing with wrap around case management to the client. CASL offers clean, well-maintained homes with one-on-one assistance, advice and referrals for other appropriate services upon assessment of the basic needs of our residents through case management. Each resident is encouraged to develop and achieve personal goals within three distinct program objectives: 1) to obtain and remain in permanent housing; 2) to achieve self-determination and 3) to increase skills and income. CASL homes include utilities, maintenance, furnishings, (including dishes, towels, sheets and toiletries), and individual case management/life skill services which help to direct the resident toward self-determination and independence. As a result, they are able to utilize the community resources and to enjoy the services and amenities offered by the county while dramatically

**EXHIBIT 7**  
**STATEMENT OF WORK-PROGRAM DESCRIPTION**

reducing the occurrence of homelessness, acute care or forensic systems. This assistance greatly aids residents to maintain their in-dependency and enables them the opportunity to contribute to our community.

**II. PROGRAM COMPONENT:**

- Leasing – Permanent Supportive Housing Program

**III. COORDINATED ENTRY/ASSESSMENT/CLIENT PRIORITIZATION:**

All persons experiencing homelessness and in need of permanent housing will be required to complete a Housing Needs Assessment. Priorities were established by the Lee County CoC to ensure that Lee County's most vulnerable populations and high users of resources are quickly transitioned into permanent and/or rapid re-housing. Individuals and families will be scored and prioritized according to the approved assessment tool, (currently the VI-SPDAT) and guidelines established by the Lee County CoC Board. Additional guidance can be found in the Lee County CoC Written Standards and Coordinated Entry Policies and Procedures on the Human & Veteran Service website; <https://www.leegov.com/dhs/funding/coc>

**IV. HOUSING TYPE – Located at 4b of HUD Application**

- Housing type identified: Clustered apartments
- Number of units identified for this project: 11
- Number of beds identified for this project: 11
- Number of beds dedicated for the Chronic Homeless: 11

This project is funded under the McKinney-Vento regulations and must serve homeless individuals as identified by HUD regulations. The numbers identified here are the minimum requirement to be served by this program. Sub-recipients should serve additional eligible clients as the need arises and fill vacancies in a timely manner.

**V. Ratio of staff to clients:** There is no predetermined ratio of staff to clients as it is dependent on the phase and level of need of each client. Provider must provide adequate staff to ensure that the appropriate level of service is offered to each client based on their need and those performance outcomes as identified in Question 6A of the Application can be satisfied. The ratio will be reviewed and validated during monitoring.

**VI. Type of Contract:** This is a line item contract. The following items/services are funded under the HUD agreement. Eligible expenses must adhere to requirements of 24 CFR 578.37, Program Components and Eligible Costs. Specific expenses requested to be funded are identified in, 6A- Funding Request, of application to HUD.

- Supportive Services
- Rental Assistance
- Administration
- Leasing

# EXHIBIT 10

## CURRENT BOARD OF DIRECTORS ROSTER

Insert Board of Directors roster and include the following:

- Names
- Indication of Officers
- Addresses
- Occupations
- Term of each Director
- Effective Date of Roster

EXHIBIT 10

COMMUNITY ASSISTED AND SUPPORTED LIVING, INC.  
BOARD OF DIRECTORS  
2024-2026

Rebecca U. Stoner, President  
CPA-Senior Accountant  
Kerkering, Barberio, & Co., PA  
1990 Main St., Suite 801  
Sarasota, Fl. 34232  
January 20, 2024 – January 19, 2026

Richard A. Ulrich, Esq.  
Attorney  
2940 South Tamiami Trail  
Sarasota, FL 34239  
January 20, 2024 – January 19, 2026

Harold Hedley, Vice President  
Non-Profit Executive/Retired  
5508 Cantucci St.  
Nokomis, Fl. 34275  
Son with disabilities-lived in CASL  
housing  
January 20, 2024 – January 19, 2026

Diane Kreisman  
7935 Woodpointe Ct.  
Sarasota, FL 34238  
Lives with chronic mental illness and  
was previously homeless  
January 20, 2024 – January 19, 2026

Steve Armstrong, Treasurer  
Business Owner  
5809 Briarwood Ave  
Sarasota, FL 34231  
Steve's Pest Control  
Family member with chronic mental  
illness, substance use disorder and  
previously homeless-lives in CASL  
housing  
January 20, 2024 – January 19, 2026

Daleen O'Dell  
Real Estate Broker  
2326 Del Prado Blvd.  
Cape Coral, Fl. 33990  
January 17, 2020 – January 16, 2022  
Family member with chronic mental  
illness, previously homeless and lived in  
CASL housing.  
January 20, 2024 – January 19, 2026

Danny Bilyeu, Secretary  
Non Profit Management  
402 W. Cornelius Cir.  
Sarasota, Fl. 34232  
January 20, 2024 – January 19, 2026



ATTACHMENT A



U.S. Department of Housing and Urban Development  
Office of Community Planning and Development  
Region IV, Miami Field Office  
Brickell Plaza Federal Building  
909 SE First Avenue, Room 500  
Miami, FL 33131-3042

*July 3, 2023*

Mr. Roger Mercado, Director  
Lee County Board of County Commissioners  
Lee County Department of Human Services  
2440 Thompson Street  
Fort Myers, FL 33901

Dear Mr. Mercado

SUBJECT: HUD's Continuum of Care Program (CoC)  
Renewal CoC: FL-603: Lee County  
Transmittal of one (1) Grant Agreement for FY 2022 funding  
Project Name: CASL Permanent Supportive Housing  
Project Number: FL0923L4D032201

Congratulations on your selection for funding under the Department of Housing and Urban Development's (HUD) FY 2022 Homeless Assistance Grants competition. Addressing homelessness is one of the Department's top priorities and your projects will make a significant contribution toward developing a continuum of care system in your community. This letter sets out the process by which you can receive your funding.

**\*\*\*PLEASE NOTE PROCESSING INSTRUCTIONS\*\*\***

Enclosed, please find the grant agreement for the above referenced grant for your Continuum of Care (CoC) Program. To help us expedite this process and prevent any delays with the processing of your grants, please follow the instructions in this letter.

Please sign the grant agreement, keeping the original for your records, and RETURN one (1) executed PDF version to: [Fiordaliza.Bustamante@hud.gov](mailto:Fiordaliza.Bustamante@hud.gov); and [Dana.K.Sibley@hud.gov](mailto:Dana.K.Sibley@hud.gov).

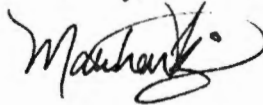
When you submit your grant agreement, you must indicate if your banking information in e-LOCCS is current. If there has been a change in your banking information, you MUST complete and submit a Direct Deposit Sign-up Form (SF-1199A) AND provide a blank check marked CANCELED or VOID. For grantees that use electronic banking, you may also provide either a voided deposit slip or a letter from the bank, on bank letterhead to substitute for a voided check. Failure to provide this information could result in delays. A copy of the form is available at: [https://www.hud.gov/program\\_offices/cfo/loccs\\_guidelines#2](https://www.hud.gov/program_offices/cfo/loccs_guidelines#2).

*HUD's mission is to create strong, sustainable, inclusive communities and quality, affordable homes for all.*

In addition, please make sure your Unique Entity ID (UEID) number is active in the System for Award Management (SAM). You can check your SAM status at this link: <https://www.sam.gov/SAM/>.

Should you have any questions about how to proceed on the execution of your grant, please contact Dana Sibley, CPD Representative at (305) 520-5021 or via email message at: [Dana.K.Sibley@hud.gov](mailto:Dana.K.Sibley@hud.gov) .

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew King", with a stylized flourish at the end.

Matthew King  
Acting CPD Director  
Office of Community Planning & Development

Enclosures

*HUD's mission is to create strong, sustainable, inclusive communities and quality, affordable homes for all.*

[www.hud.gov](http://www.hud.gov)

[espanol.hud.gov](http://espanol.hud.gov)



U.S. Department of Housing and Urban Development  
Office of Community Planning and Development  
909 SE First Avenue  
Miami, FL 33131

**Grant Number: FL0923L4D032201**  
**Recipient's Name: Lee County Board of County Commissioners**  
**Tax ID Number: 59-6000702**  
**Unique Entity Identifier [SAM]: SS8JCN35XH77**  
**Federal Award Date: 07/03/2023**

**CONTINUUM OF CARE PROGRAM (CDFA# 14.267)  
GRANT AGREEMENT**

This Grant Agreement ("this Agreement") is made by and between the United States Department of Housing and Urban Development ("HUD") and Lee County Board of County Commissioners (the "Recipient"). This Agreement, the Recipient's use of funds provided under this Agreement (the "Grant" or "Grant Funds"), and the Recipient's operation of projects assisted with Grant Funds are governed by

1. The Consolidated Appropriations Act, 2022 (Pub. L. 117-103, approved March 15, 2022);
2. title IV of the McKinney-Vento Homeless Assistance Act 42 U.S.C. 11301 et seq. (the "Act");
3. the Continuum of Care Program rule at 24 CFR part 578 (the "Rule"), as amended from time to time;
4. and the Notice of Funding Opportunity for the fiscal year in which the funds were awarded; and
5. the Recipient's application submissions on the basis of which these Grant Funds were approved by HUD, including the certifications, assurances, technical submission documents, and any information or documentation required to meet any grant award condition (collectively, the "Application").

The Application is incorporated herein as part of this Agreement, except that only the project (those projects) listed below are funded by this Agreement. In the event of any conflict between any application provision and any provision contained in this Agreement, this Agreement shall control. Capitalized terms that are not defined in this agreement shall have the meanings given in the Rule.

HUD's total funding obligation authorized by this grant agreement is \$171,458, allocated between the project(s) listed below (each identified by a separate grant number) and, within those projects, between budget line items, as shown below. The Grant Funds an individual project will receive are as shown in the Application on the final HUD-approved Summary Budget for the project. Recipient shall use the Grant Funds provided for the projects listed below, during the budget period(s) period stated below.

<b>Grant No.</b>	<b>Grant Term</b>	<b>Performance Period</b>	<b>Total Amount</b>
FL0923L4D032201	12 months	10-01-2023 - 09-30-2024	\$171,458
a. Continuum of Care planning activities			\$0
b. Acquisition			\$0
c. Rehabilitation			\$0
d. New construction			\$0
e. Leasing			\$171,458
f. Rental assistance			\$0
g. Supportive services			\$0
h. Operating costs			\$0
i. Homeless Management Information System			\$0
j. Administrative costs			\$0
k. Relocation Costs			\$0
l. HPC homelessness prevention activities:			
Housing relocation and stabilization services			\$0
Short-term and medium-term rental assistance			\$0

## Pre-award Costs for Continuum of Care Planning

The Recipient may, at its own risk, incur pre-award costs for continuum of care planning awards, after the date of the HUD selection notice and prior to the effective date of this Agreement, if such costs: a) are consistent with 2 CFR 200.458; and b) would be allowable as a post-award cost; and c) do not exceed 10 percent of the total funds obligated to this award. The incurrence of pre-award costs in anticipation of an award imposes no obligation on HUD either to make the award, or to increase the amount of the approved budget, if the award is made for less than the amount anticipated and is inadequate to cover the pre-award costs incurred.

These provisions apply to all Recipients:

If any new projects funded under this Agreement are for project-based rental assistance for a term of fifteen (15) years, the funding provided under this Agreement is for the performance period stated herein only. Additional funding is subject to the availability of annual appropriations.

The budget period and performance period of renewal projects funded by this Agreement will begin immediately at the end of the budget period and performance period of the grant being renewed. Eligible costs incurred between the end of Recipient's budget period and performance period under the grant being renewed and the date this Agreement is executed by both parties may be reimbursed with Grants Funds from this Agreement. No Grant Funds for renewal projects may be drawn down by Recipient before the end date of the project's budget period and performance period under the grant that has been renewed.

For any transition project funded under this Agreement the budget period and performance period of the transition project(s) will begin immediately at the end of the Recipient's final operating year under the grant being transitioned. Eligible costs, as defined by the Act and the Rule incurred between the end of Recipient's final operating year under the grant being transitioned and the execution of this Agreement may be paid with funds from the first operating year of this Agreement.

HUD designations of Continuums of Care as High-performing Communities (HPCS) are published on HUD.gov in the appropriate Fiscal Years' CoC Program Competition Funding Availability page. Notwithstanding anything to the contrary in the Application or this Agreement, Recipient may only use grant funds for HPC Homelessness Prevention Activities if the Continuum that designated the Recipient to apply for the grant was designated an HPC for the applicable fiscal year.

The Recipient must complete the attached "Indirect Cost Rate Schedule" and return it to HUD with this Agreement. The Recipient must provide HUD with a revised schedule when any change is made to the rate(s) included in the schedule. The schedule and any revisions HUD receives from the Recipient will be incorporated into and made part of this Agreement, provided that each rate included satisfies the applicable requirements under 2 CFR part 200 (including appendices).

This Agreement shall remain in effect until the earlier of 1) written agreement by the parties; 2) by HUD alone, acting under the authority of 24 CFR 578.107; 3) upon expiration of the budget period and performance period for all projects funded under this Agreement; or 4) upon the expiration of the period of availability of Grant Funds for all projects funded under this Agreement.

HUD notifications to the Recipient shall be to the address of the Recipient as stated in the Recipient's applicant profile in e-snaps. Recipient notifications to HUD shall be to the HUD Field Office executing the Agreement. No right, benefit, or advantage of the Recipient hereunder may be assigned without prior written approval of HUD.

Build America, Buy America Act. The Grantee must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

The Agreement constitutes the entire agreement between the parties and may be amended only in writing executed by HUD and the Recipient.

By signing below, Recipients that are states and units of local government certify that they are following a current HUD approved CHAS (Consolidated Plan).



This agreement is hereby executed on behalf of the parties as follows:

**UNITED STATES OF AMERICA,  
Secretary of Housing and Urban Development**

By:

  
(Signature)

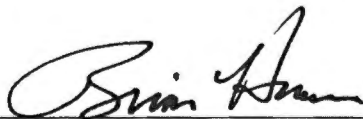
Matthew King, Acting CPD Director  
(Typed Name and Title)

July 3, 2023  
(Date)

**RECIPIENT**

Lee County Board of County Commissioners  
(Name of Organization)

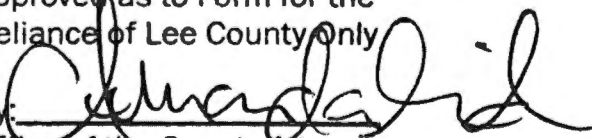
By:

  
(Signature of Authorized Official)

Brian Hamman, Chair, Board of County Commissioners  
(Typed Name and Title of Authorized Official)

9/18/23  
(Date)

Approved as to Form for the  
Reliance of Lee County Only

By:   
Office of the County Attorney

**Indirect Cost Schedule**

<b>Agency/Dept./Major Function</b>	<b>Indirect Cost Rate</b>	<b>Direct Cost Base</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

This schedule must include each indirect cost rate that will be used to calculate the Recipient's indirect costs under the grant. The schedule must also specify the type of direct cost base to which each included rate applies (for example, Modified Total Direct Costs (MTDC)). Do not include indirect cost rate information for subrecipients.

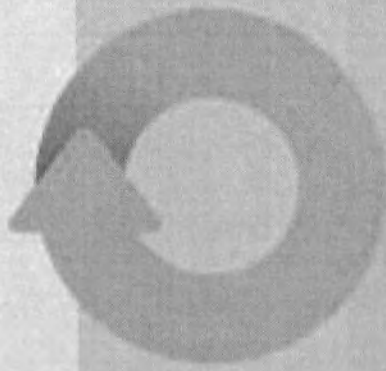
For government entities, enter each agency or department that will carry out activities under the grant, the indirect cost rate applicable to each department/agency (including if the de minimis rate is used per 2 CFR §200.414), and the type of direct cost base to which the rate will be applied.

For nonprofit organizations that use the Simplified Allocation Method for indirect costs or elects to use the de minimis rate of 10% of Modified Total Direct Costs in accordance with 2 CFR §200.414, enter the applicable indirect cost rate and type of direct cost base in the first row of the table.

For nonprofit organizations that use the Multiple Base Allocation Method, enter each major function of the organization for which a rate was developed and will be used under the grant, the indirect cost rate applicable to that major function, and the type of direct cost base to which the rate will be applied.

To learn more about the indirect cost requirements, see 24 CFR 578.63; 2 CFR part 200, subpart E; Appendix IV to Part 200 (for nonprofit organizations); and Appendix VII to Part 200 (for state and local governments).

ATTACHMENT B



Lee County  
Continuum of Care

# Coordinated Entry Policies & Procedures and Written Standards

Approved by the Lee County CoC Governing  
Board on January 17, 2018

Amended September 12, 2019

Amended August 6, 2020

Lee County CoC Board Chair Approval:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

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### III. OVERVIEW

The Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009 reauthorized the McKinney-Vento Homeless Assistance programs. Through the enactment of the HEARTH Act, the Department of Housing and Urban Development (HUD) published the new Continuum of Care (CoC) Program interim rule.<sup>1</sup> The CoC Program interim rule requires that the CoC establish and consistently follow written standards for providing CoC assistance, in consultation with recipients of the Emergency Solutions Grant (ESG) program. At a minimum, these written standards must include:

- Policies and procedures for evaluating individuals' and families' eligibility for assistance in all CoC and ESG programs.
- Policies and procedures for determining and prioritizing which eligible individuals and families will receive assistance through homelessness prevention, diversion, street outreach, emergency shelter, rental assistance, permanent supportive housing assistance, transitional housing assistance, joint transitional housing to rapid re-housing, and rapid re-housing assistance.
- Policies and procedures for coordination among emergency shelter providers, essential services providers, homelessness prevention, and rapid re-housing assistance providers; other homeless assistance providers; and mainstream service and housing providers.
- Standards for determining what percentage or amount of rent and utilities costs each program participant must pay while receiving homelessness prevention, rental assistance, or rapid re-housing assistance.
- Standards for determining how long a particular program participant will be provided with rental assistance and whether and how the amount of that assistance will be adjusted over time; and
- Standards for determining the type, amount, and duration of housing stabilization and/or relocation services to provide to a program participant, including the limits, if any, on the homelessness prevention or rapid re-housing assistance that each program participant may receive, such as the maximum amount of assistance, maximum number of months the program participant receive assistance; or the maximum number of times the program participant may receive assistance.

In addition, 24 CFR 578.7(a)(8) and CPD-17-01 requires the Lee County Continuum of Care (CoC) to establish and operate a Coordinated Entry System (CES) that provides an initial, comprehensive assessment of the needs of individuals and families for housing and services. Coordinated Entry is designed to provide standardized access and assessment, and coordinate housing and services for individuals and families experiencing homelessness. Coordinated Entry facilitates referrals and housing placements to ensure that individuals and families experiencing homelessness receive appropriate assistance with both immediate and long-term housing and service needs.

The Lee County CoC agrees that these standards must be applied consistently across the entire CoC defined geographic area. Additionally, Lee County CoC members agree to administer their assistance in compliance with the CoC's written standards upon award of CoC, ESG or other applicable funds. Recipients and sub-recipients of CoC, ESG and other applicable funds may develop additional standards for administering program assistance, but these additional standards cannot be in conflict with those established by the Lee County CoC, the CoC Program interim rule, or any other federal guidance.

# I. DEFINITIONS & CROSS CUTTING REQUIREMENTS

## A. HOUSING FIRST

The *Housing First* approach is a data driven solution to homelessness. *Housing First* approaches feature direct, or nearly direct, placement of persons who are homeless into permanent housing where supportive services are offered to maximize housing stability and prevent returns to homelessness as opposed to addressing predetermined treatment goals prior to permanent housing entry. *Housing First* approaches ensure that the risk factors that make finding and maintaining housing more challenging are used to screen people into assistance rather than screening them out.

*Housing First* requires that program participants are not screened out based on:

- Having too little or no income;
- Active or history of substance use;
- Type or extent of disability related support needed;
- Resistance to receiving services;
- History of eviction, poor credit, lease violations, or no lease history;
- Having a criminal record with exceptions for state-mandated restrictions; or
- History of victimization (e.g. domestic violence, sexual assault, childhood abuse).

The CoC maintains the commitment to unconditional acceptance of individuals into housing, especially for people with a high degree of vulnerability. At the same time, allowing service participation requirements once a person has been stably housed may promote important outcomes (e.g., employment, increased income, reduced substance use, and strengthened social connection), therefore flexibility is granted, without penalty, to use service participation requirements after people have been stabilized in housing.<sup>ii</sup> Programs may refuse to continue providing services to clients that are not compliant with program requirements as a last resort. Returning individuals and families to homelessness is a negative outcome, and should be avoided whenever possible.

All Lee County CoC service providers are required to implement a *Housing First* approach that ensures low barrier program entry and the provision of supportive services, both during and post-housing, that promote housing stability and overall well-being.

## B. HOUSING/PROJECT TYPES

The CoC must coordinate the implementation of a housing and service system within Lee County that meets the needs of individuals and families experiencing homelessness. Lee County's system encompasses the following:

1. **Outreach (SO)** – activities to locate, identify, and build relationships with unsheltered homeless people and engage them for the purpose of providing immediate support, intervention, and connections with homeless assistance programs and/or mainstream social services and housing programs.
2. **Coordinated Entry/Assessment (CE)** – a process developed to ensure that all people experiencing a housing crisis have fair and equal access and are quickly identified, assessed for, referred, and connected to housing and assistance based on their strengths and needs.
3. **Emergency Shelter (ES)** - any facility, the primary purpose of which is to provide a temporary shelter for the homeless in general or for specific populations of the homeless and which does not require occupants to sign leases or occupancy agreements.

4. **Transitional Housing (TH)** - a project that is designed to provide housing and appropriate supportive services to homeless persons to facilitate movement to independent living within 24 months.
5. **Permanent Housing (PH)** – community-based housing without a designated length of stay in which formerly homeless individuals and families live as independently as possible.
  - a. **Rapid Re-Housing (RRH)** – a form of permanent housing that is short-term (up to 3 months) and/or medium-term (for 3 to 24 months) tenant-based rental assistance, as set forth in 24 CFR 578.51(c), as necessary to help a homeless individual or family, with or without disabilities, move as quickly as possible into permanent housing.
  - b. **Permanent Supportive Housing (PSH)** – permanent housing with indefinite leasing or rental assistance paired with supportive services to assist homeless persons with a disability or families with an adult or child member with a disability achieve housing stability.
6. **Supportive Services (SSO)** – community or in home based services necessary to ensure the retention of permanent housing. Includes, but is not limited to, mental health, substance abuse, and medical services.
7. **Diversion and Prevention Services (HP)** - a strategy that prevents homelessness for people seeking shelter by helping them identify immediate alternate housing arrangements and, if necessary, connecting them with services and financial assistance to help them return to or remain in permanent housing.

### C. SEVERITY OF SERVICE NEEDS

In General, persons identified as having the most severe service needs, are those individuals or families for whom at least one of the following is true:

- (1) History of high utilization of crisis services, which include but are not limited to, emergency rooms, jails, and psychiatric facilities; and/or
- (2) Significant health or behavioral health challenges, substance use disorders, or functional impairments which require a significant level of support in order to maintain permanent housing.
- (3) For youth and victims of domestic violence, high risk of continued trauma or high-risk of harm or exposure to very dangerous living situations.

The Lee County CoC prioritizes individuals through a dynamic prioritization system, which draws on data from client assessments to indicate whether a person is chronically homeless, has suffered abuse and trauma which caused their current state of homelessness, suffers from significant mental health, physical health, and substance abuse issues. Homeless veterans, homeless families with children, and homeless individuals who indicate they are suffering the largest number of the vulnerability indicators will be prioritized for placement into housing and services.

### D. CATEGORY 1: LITERALLY HOMELESS

Individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning: (i) Has a primary nighttime residence that is a public or private place not meant for human habitation; (ii) Is living in a 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 and local government programs); or (iii) Is exiting an institution where (s)he has 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.

### Verification Requirements

- (a) Written observation by an outreach worker; or
- (b) Written referral by another housing or service provider, which includes all due diligence documentation and/or narrative, including dates to validate homelessness eligibility; or
- (c) Certification by the individual or head of household seeking assistance state that (s)he was living on the streets or in shelter, accompanied by an outreach or caseworker's statement of due diligence to establish the client's homeless status;
- (d) For individuals exiting from and an institution – one of the form of evidence above, and:
  - i. Discharge paperwork or written/oral referral, or
  - ii. Written record of intake worker's due diligence to obtain above evidence and certification by individual that they exited institution.

### E. CATEGORY 2: IMMINENT RISK OF HOMELESS

Individual or family who will imminently lose their primary nighttime residence, provided that: (i) 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 needed to obtain other permanent housing.

#### Verification Requirements

- (a) A court order resulting from an eviction action notifying the individual or family that they must leave; or
- (b) For individuals and families leaving a hotel or motel – evidence that they lack the financial resources to stay; or
- (c) A documented and verified oral statement; and
- (d) Certification that no subsequent residence has been identified; and
- (e) Self-certification or other written documentation that the individual lacks the financial resources and support necessary to obtain permanent housing.

### F. CATEGORY 3: HOMELESS UNDER OTHER FEDERAL STATUTES

Unaccompanied youth under 25 years of age, or families with Category 3 children and youth, who do not otherwise qualify as homeless under this definition, but who: (i) Are defined as homeless under the other listed federal statutes; (ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing during the 60 days prior to the homeless assistance application; (iii) Have experienced persistent instability as measured by two moves or more during in the preceding 60 days; and (iv) Can be expected to continue in such status for an extended period of time due to special needs or barriers.

#### Verification Requirements

- (a) Certification by the non-profit or state or local government that the individual or head of household seeking assistance met the criteria of homelessness under another federal statute; and
- (b) Certification of no PH in the last 60 days; and
- (c) Certification by the individual or head of household, and any available supporting documentation, that (S)he has moved two or more times in the past 60 days; and
- (d) Documentation of special needs or 2 or more barrier.

## **G. CATEGORY 4: FLEEING/ATTEMPTING TO FLEE DOMESTIC VIOLENCE**

Households who are fleeing, or attempting to flee domestic violence; have no subsequent residence; and have no resources or support networks to obtain other permanent housing.

### **Verification Requirements**

(a) For victim service providers:

- i. An oral statement by the individual or head of household seeking assistance which states; they are fleeing; they have no subsequent residence; and they lack resources. Statement must be documented by a self-certification or a certification by an intake workers.

(b) For non-victim service providers:

- i. Oral statement by the individual or head of household seeking assistance that they are fleeing. This statement is documented by a self-certification or by a caseworker. Where the safety of the individual or family is not jeopardized, the oral statement must be verified; and
- ii. Certification by the individual or head of household that no subsequent residence has been identified; and
- iii. Self-certification, or other written documentation, that the individual or family lacks the financial resources and support networks to obtain other permanent housing.

## **H. CHRONICALLY HOMELESS**

The definition of "chronically homeless", as stated in Definition of Chronically Homeless final rule is:

(1) A "homeless individual with a disability," as defined in Section 401(9) of the McKinney-Vento Homeless Assistance Act,<sup>iii</sup> who:

- (a) Lives in a place not meant for human habitation, a safe haven, or in a an emergency shelter; and
- (b) Has been homeless and living a described in paragraph (a)(i) continuously for at least 12 months or on at least four 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 (a)(i). Status 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 an 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 (a) of this definition, before entering the facility;

(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 (a) or (b) of this definition (as described in Section I.D.2.(a) of Notice CPD-16-11), including a family whose composition has fluctuated while the head of household has been homeless.

### **Verification Requirements**

All recipients of dedicated and non-dedicated CoC Program-funded PSH must obtain documentation to verify that an individual or family is chronically homeless for the purposes of eligibility.<sup>iv</sup>



- (1) Documentation from HMIS/Comparable Databases showing entries/exits at shelters; or
- (2) Written Observation by an outreach worker; or
- (3) Referral by another housing or service provider, which includes all due diligence documentation and/or narrative, including dates to validate homelessness eligibility; or
- (4) Documentation from institutions like hospitals, correctional facilities, etc., which include records about the length of stay, and are signed by Clinician or other appropriate staff; and
- (5) Signed certification by the individual seeking assistance describing how they meet the definition, which must be accompanied by the above documentation.

## **I. VIOLENCE AGAINST WOMEN ACT OF 2013 (VAWA)**

On November 16, 2016, the U.S. Department of Housing and Urban Development published the final rule regarding housing protections for victims of domestic violence, dating violence, sexual assault, or stalking.<sup>v</sup> This final rule prohibits an applicant for assistance or tenant assisted under a covered housing program from being denied assistance under, denied admission to, terminated from participation in, or evicted from housing on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, so long as the applicant otherwise qualifies for admission, assistance, participation or occupation.<sup>vi</sup>

In addition, the VAWA Final Rule requires that each covered housing provider produce a detailed emergency transfer plan, which ensures that a tenant receiving rental assistance through or residing in a unit subsidized under a covered housing program who is a victim of domestic violence, dating violence, sexual assault, or stalking qualifies for an emergency transfer within the criteria stated in 24 CFR 5.2005 (e)(2). Lee County's Emergency Transfer plan, Attachment 1, encompasses all CoC, Emergency Solutions Grant (ESG), and HOME funded programs. All covered housing providers must maintain records on emergency transfers requested under 24 CFR 5.2005(e). Data must include the outcomes of each request, and must be provided to Lee County upon request.

VAWA in no way limits the authority of the covered housing program to terminate assistance or evict a tenant under a covered housing program if the provider can demonstrate that an actual and imminent threat to other tenants or those employed at or providing service to the property of the covered housing provider would be present if that tenant is not evicted or terminated.<sup>vii</sup>

## **J. EDUCATIONAL SERVICES**

All Lee County CoC service providers must have written policies in place which ensure that individuals and families who become homeless are informed of their eligibility for and receive access to educational services. These policies should include how homeless families with children will be informed of and referred to the Lee County School Districts homeless students program, A.C.C.E.S.S. Such policies should also include information for all homeless individuals and families regarding local technical schools and universities, which may offer programs and assistance for persons who are homeless.

Additionally, programs that specifically serve families with children must have a staff person designated as the education liaison that will ensure that children are enrolled in school and connected to the A.C.C.E.S.S. program, as well as Head Start, if applicable.



## **K. COORDINATION WITH MAINSTREAM SERVICES**

A primary function of case management is to make and coordinate referrals with community resources and mainstream services such as: Food Stamps, Medicaid, Child Care, SSI/SSDI, Veteran's Services, Section 8 Housing, mental health services, abuse services, etc. Staff from all funded agencies are required to make referrals and ensure clients access the referred services. Staff must also make necessary accommodations to ensure that clients needing additional assistance to utilize services have the necessary resources. Client files from funded agencies will be monitored to ensure that referrals and accommodations are appropriate, consistent, and timely.

## **L. DIVERSION PRACTICES**

Diversion is implemented to ensure that scarce resources are preserved for the most vulnerable individuals and families. Diversion identifies alternative resources, encourages the development of problem solving skills, and ultimately diverts individuals and families to a safe and secure temporary or permanent housing location outside of the CoC homelessness response system.

Prioritization for diversion services is largely based on client choice. Individuals and families must be willing to participate in mediation, problem solving, and be willing to invest time developing and implementing solutions that prevent or avoid homelessness. Additional priorities for diversion services may be established by service providers, so long as the policies are outlined in a written document(s) and do not conflict with any part of these standards.

## **M. HOMELESS MANAGEMENT INFORMATION SYSTEM (HMIS)**

All projects funded by or through Lee County Human and Veteran Services must ensure that data on all persons served and all activities assisted are entered into the community-wide HMIS, Client Services Network (CSN), in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS. If the recipient of funds is a victim service provider or a legal services provider, it may use a comparable database that collects client-level data over time (i.e., longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into HMIS.

## **N. ENVIRONMENTAL REVIEWS**

Lee County Human and Veteran Services serves as the responsible entity. Environmental reviews for applicable projects will be completed in accordance with 24 CFR Part 58.

CoC funded projects that consist only of leasing or rental assistance activities require a "limited scope" environmental review. The limited scope review need only analyze applicable environmental laws and authorities and may document that the project is in compliance with others without analysis. A limited scope review is appropriate only if the project consists entirely of leasing or rental assistance activities in existing residential buildings without any associated physical impacts, including repairs, rehabilitation, or new construction.

Limited scope reviews shall be completed for all CoC rental assistance activities which do not consist of any repairs, rehabilitation, or new construction using the "Limited Scope Environmental Review Instructions – Continuum of Care (CoC)" and "Limited Scope Environmental Review Format – Continuum of Care (CoC)" supplied by HUD.

## **O. JUST ENOUGH ASSISTANCE**

The “Just Enough Assistance” principle ensures that the minimum assistance necessary for a household to obtain and maintain stable housing is provided for the shortest period of time possible. Barriers to housing stability are identified at the outset of services and supports are provided to eliminate those barriers and improve the household’s ability to sustain housing.

## **P. NONDISCRIMINATION AND EQUAL OPPORTUNITIES**

The Lee County CoC operates the Coordinated Entry system in accordance with all federal statutes including, but not limited to: the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and Title II and Title III of the Americans with Disabilities Act. All service providers, where assistance is provided through Community Planning and Development (CPD) programs, including assistance under the: HOME Investment Partnerships program,<sup>viii</sup> Housing Trust Fund program,<sup>ix</sup> Community Development Block Grant program,<sup>x</sup> Housing Opportunities for Persons With AIDS program,<sup>xi</sup> Emergency Solutions Grants program,<sup>xii</sup> Continuum of Care program,<sup>xiii</sup> or Rural Housing Stability Assistance Program,<sup>xiv</sup> must ensure equal access to the HUD-assisted program in accordance with all general HUD program requirements as specified in 24 CFR Part 5.

Lee County CoC requires service providers to practice a person-centered model that incorporates participant choice and inclusion of all homeless subpopulations present in Lee County, including homeless veterans, youth, and families with children, individual adults, seniors, victims of domestic violence, and Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, and Intersex (LGBTQI+) individuals and families.

All CoC and ESG funded service providers must ensure that all persons have fair and equal access to the Coordinated Entry process and all forms of assistance regardless of race, ethnicity, national origin, age, sex, familial status, religious preference, disability type, or amount of disability, gender identity, perceived gender identity, marital status, sexual orientation, or perceived sexual orientation.

Additionally, service providers must maintain compliance with the HEARTH Act’s involuntary family separation provision,<sup>xv</sup> which ensures that emergency shelters, transitional housing, and permanent housing (PSH and RRH) providers within the CoC do not deny admission to or separate any family members from other members of their family based on age, sex, marital status, gender, gender identity, perceived gender identity, sexual orientation, or disability, when entering shelter or housing.

## **Q. REASONABLE ACCOMMODATIONS**

The Lee County CoC ensures that persons with disabilities have equal access to the Coordinated Entry System through compliance with the requirements of Title II and Title III of the Americans with Disabilities Act. Lee County does not discriminate against individuals with disabilities on the basis of disability in the County's services, programs, or activities.

To request an auxiliary aid or service for effective communication or a reasonable modification clients may contact Lee County Human and Veteran Services at 239-533-7900 or the service provider from which they are seeking assistance. Persons needing translation services should contact Lee County Human and Veteran Services at 239-533-7900 or the service provider from which they are seeking assistance. Accommodations and translation services will be provided at no cost to the requestor.

All Coordinated Entry access points must be accessible for persons with disabilities, include those who use wheelchairs and those who are least likely to access homeless assistance. Upon request, all agencies must provide appropriate and reasonable accommodations for persons with disabilities and/or Limited English Proficiency (LEP) so they can participate equally in the Coordinated Entry process, including qualified language interpreters, and other ways of making information and communications accessible to people who have speech, hearing or vision impairments, disabilities, or those with LEP.

## **R. RECORDKEEPING**

All projects must maintain and follow written intake procedures to ensure compliance with the homeless definition in §576.2. The procedures must establish the order of priority for obtaining evidence as third-party documentation first, outreach or intake staff observations second, and certification from the person seeking assistance third. Documentation of intake must include evidence relied upon to establish and verify homeless status; however, lack of third-party documentation must not prevent an individual or family from being immediately admitted to emergency shelter, receiving street outreach services, or receiving services provided by a victim service provider.

The following documentation must be obtained in the priority order listed below.

- (1) Third Party Documentation – Agency Letter or Outreach Worker certification verifying client is chronically homeless in accordance with 24 CFR 578.3. Documentation must record all dated incidences of homelessness. If no 3rd Party Documentation exists then the following info must be collected.
- (2) Staff Observations – Narrative from outreach or intake staff describing homeless events; where, when (dates), why; and work up documenting eligibility.  
And:
- (3) Client Certification – letter written by client or as dictated to Intake Worker explaining all incidences of homelessness
  - a. Dates of homelessness are required to be calculated and verified, even if the client is not determined to be Chronically Homeless

Records from HMIS or comparable database used by victim service or legal service providers are acceptable evidence of third-party documentation.

Documentation of outreach or intake staff observations from HMIS are acceptable only if HMIS retains an auditable history of all entries, including the person who entered the data, the date of entry, and records of changes made; and if HMIS prevents overrides or changes of the dates on which entries are made.

NOTE: Agencies making and receiving referrals must perform due diligence to document a client's homelessness status, as defined in 24 CFR 578.3. A letter from another agency simply stating the client is homeless does not constitute homelessness, as defined in 24 CFR 578.3.

## **S. STRATEGY FOR ENSURING COMPLIANCE**

CoC and ESG funded service providers will be monitored annually by Lee County to ensure compliance with the standards and laws listed here within. The monitoring will include a review of the provider policies, procedures, and practices to ensure compliance with all federal regulations, laws, standards, rules, and any other local policies applicable to the program being monitored. The monitoring report will include any findings or concerns related applicable laws, standards, and rules specified here within.

## II. CORE ELEMENTS OF THE COORDINATED ENTRY SYSTEM

The Lee County CoC Coordinated Entry process has four distinct elements: *access, assessment, prioritization, and referral*. The goals of the Coordinated Entry System are to provide:

- **Access**
  - By ensuring that clients know how and where to gain access and receive assistance as efficiently and effectively as possible.
  
- **Assessment**
  - By ensuring all clients receive standardized assessments and experiences when seeking assistance throughout the CoC, and
  - By ensuring clarity, transparency, consistency, and accountability for homeless clients, referral sources, and homeless service providers throughout the assessment process.
  
- **Prioritization**
  - By ensuring that clients who have the longest instances of homelessness and/or are the most vulnerable have priority access to limited resources.
  
- **Referral**
  - By ensuring clients are referred to the type of intervention most appropriate to their immediate and long-term housing and service needs, and
  - By ensuring CoC resources are being used to their full capacity to meet the needs of individuals and families who are homeless.

### III. ACCESS

In 2019, the Lee County CoC transitioned from a "no wrong door" approach to a Centralized Coordinated Entry System (CES) that uses access points as the front door for all housing resources. . Client must call the local number or visit an in-person access point to receive an assessment and be prioritized for services. Staff will attempt diversion with all clients, and provide a housing needs assessment with all clients not successfully diverted.

#### A. AFFIRMATIVE MARKETING STRATEGY

The Coordinated Entry Affirmative Marketing Strategy (CEAMS) is a communication and management strategy designed to make the Coordinated Entry access points and CoC housing and services accessible to all persons regardless of sex, gender identity, perceived gender identity, sexual orientation, perceived sexual orientation, age, color, national origin, ethnicity, limited English proficiency, disability status, family status, marital status, or religion.

All providers participating in the Coordinated Entry system (CES) shall:

- Identify special populations and subpopulations in the CoC jurisdiction who are eligible for CES services but have historically not participated, enrolled, and entered in CoC programs in rates commensurate with overall subpopulation prevalence.
- Outline an outreach program that includes special measures designed to attract those groups identified as least likely to apply and other efforts designed to attract persons from the total population.
- The effectiveness of the marketing program can be determined by noting if the program effectively attracted persons experiencing homelessness who are:
  - From minority groups, regardless of gender, as represented in the population of the CoC jurisdiction;
  - Persons with disabilities and their families;
  - Persons whose legal history, housing history, substance use history, behavior health status, physical health status, or any other attribute or characteristic has historically served as a barrier to gaining entry to CoC services and/or housing.

The Lee County CES shall be marketed throughout the CoC's geographic area via the Lee County and Lee County Homeless Coalition websites, social media pages, and other means as deemed appropriate. All policies and procedures related to CES shall be advertised on the Lee County HMIS page:

<http://www.leegov.com/dhs/csn/downloads>. Additional efforts to carry out the CEAMS shall include:

- (1) Advertising in locations or media that are used and viewed or listened to by those identified as least likely to enter CoC services and housing, such as youth, individuals who are chronically homeless, and families with children;
- (2) Marketing CoC services and housing to specific community, religious, support organization or other groups frequented by those least likely to enter CoC services and housing;
- (3) Distribution of a brochure and other printed materials, which describe the Coordinated Entry process to be used by persons experiencing a housing crisis to locate, identify, and access CES services.
- (4) Incorporating information regarding compliance with the Fair Housing Act, American's with Disabilities Act, and the CEAMS into CES training protocols.

*In accordance with the Americans with Disabilities Act, Lee County does not discriminate against qualified individuals with disabilities in its services, programs, or activities. To request an auxiliary aid or service for effective communication or a reasonable modification clients may contact Lee County Human and Veteran Services at 239-533-7900 or the service provider from which they are seeking assistance. Persons needing translation services should contact Lee County Human and Veteran Services at 239-533-7900 or the service provider from which they are seeking assistance. Accommodations and translation services will be provided at no cost to the requestor.*



## **B. PRIVACY PROTECTIONS & PARTICIPANT AUTONOMY**

The Lee County HMIS Privacy Notice describes the privacy policy of the Lee County HMIS and the agencies participating in the Homeless Management Information System (HMIS). The notice outlines that personal information is collected only when appropriate, and no information may be used or disclose for any purpose other than for that of the program. Information may only be used or disclosed to comply with legal and other obligations. Before conducting a Coordinated Entry, the Client Informed Consent and Release of Information Authorization form must first be signed, and the client must give consent to the exchange of information on Client Services Network (CSN). All CSN users are required to sign a user agreement with further instruction related to protecting client's privacy and personally identifying information.

Individuals are free to decide what information they provide during the assessment process, and agencies are prohibited from denying assessment or services to individuals who refuse to provide specific information, unless that information is necessary to establish program eligibility according to program regulations. Additionally, the assessment and prioritization process cannot require disclosure of specific disabilities or diagnoses. Specific diagnosis or disability information may only be obtained for the purposes of determining program eligibility to make appropriate referrals, such as for Permanent Supportive Housing (PSH).

Individuals shall be allowed to refuse to answer assessment questions and to refuse housing and service options without retribution or limitations on their access to assistance. Should an individual reject a housing or service option they will maintain their prioritization for the next available housing or service option. The housing or service option that was rejected shall be provided to the next individual according to the prioritizations outlined in the program prioritizations here within.

Individuals who do not sign the release of information should not have an assessment completed, and shall not be denied services unless federal statute requires collection, use, storage, and reporting of the individuals personally identifiable information as a condition of program participation.

## **C. SAFETY PLANNING**

No individual may be denied access to the assessment process, supportive services, housing or other services provided by victim specific or non-victim specific service providers on the basis that an individual is or has been a victim of domestic violence, dating violence, sexual assault or stalking.

Victims of domestic violence, dating violence, sexual assault, stalking or human trafficking are not maintained in HMIS within the Lee County CoC. Individuals and families who are fleeing domestic violence, dating violence, sexual assault, stalking or human trafficking will receive an assessment via paper, which will be entered into an HMIS comparable database. Data maintained in comparable databases by victim specific service providers is reconciled to Lee County HMIS data annually.

Any person who knows, or has reasonable cause to suspect, that a child or elder is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's or elder's welfare is a mandatory reporter,<sup>xvi</sup> and must make a report to the Florida Abuse Hotline at 1-800-962-2873 or online at [www.myflfamilies.com/service-programs/abuse-hotline/report-online](http://www.myflfamilies.com/service-programs/abuse-hotline/report-online). To report an allegation in Spanish or Creole, call 1-800-962-2873, for TDD (Telephone Device for the Deaf) 1-800-453-5145. This toll free number is available 24 hours a day, 7 days a week with counselors waiting to assist you. All reports are confidential.

## D. EMERGENCY AFTER HOURS SERVICES

The Coordinated Entry line is staffed during business hours 5 days a week. Lee County has trained assessors that are available to complete Coordinated Assessments and add clients to the Connection List. Clients who call after hours seeking assessment for permanent housing resources will be logged and called back as soon as assessors are available.

ACT, the local domestic violence shelter, provides services to all persons without regard to race, color, religion, national origin, gender, age, mental or physical disability, sexual orientation, citizenship, marital status, gender identity (or expression), language spoken, immigration status and any other protected class, through their 24-hour crisis hotline. The crisis hotline (239-939-3112) offers information and referrals, safety planning, and shelter admission assessments.

The Bob Janes Triage Low Demand Shelter, operated by The Salvation Army admits guests through Lee County Law Enforcement Departments, Lee Health, and various other agencies 24 hours per day. 7 days a week. Initial assessments are conducted by the on-staff nurse.

## IV. ASSESSMENT

All persons experiencing homelessness and in need of permanent housing will be required to contact Coordinated Entry by the local number to complete a Housing Needs Assessment (also known as a Coordinated Assessment). Upon completion the client will be referred to shelter if shelter space is available and appropriate; or to street outreach or other services. Individuals that are determined to be literally homeless, per HUD's definition of homelessness and are seeking housing services will be referred to a VI-SPDAT assessment, which will be used to prioritize the household for housing services. Shelter and outreach staff will assist the client in becoming "document ready," which includes the assembly of the necessary documents for housing.

*NOTE: All assessments conducted on paper must be recorded in HMIS within 48 hours of when the information was first collected.*

Information gathered and prioritizations made must be consistent with 24 CFR 576.400(e) and 24 CFR 578.7(a)(9). Under no circumstances should a client be told their assessment score or their qualification status based on their assessment score because the assessment tools may not produce a complete body of information necessary to determine household prioritization or program qualification. Case workers may be required to gather additional information relevant to the factors in accordance with CoC prescribed prioritization criteria to make prioritization and qualification decisions.

The Coordinated Entry process must not be used to screen people out due to perceived barriers to housing or services, including, but not limited to:

- Too little or no income;
- Active or a history of substance abuse;
- Domestic violence history;
- Resistance to receiving services;
- The type or extent of disability-related services or supports that are needed;
- History of evictions, lease violation or lack of leaseholder history;
- Criminal records; or
- Poor credit.



## A. ASSESSOR TRAINING

The HMIS Lead Agency will provide at least one annual training opportunity, which may be in-person, a live or recorded online session, or a self-administered training, to participating staff at organizations that serve as access points or otherwise conduct assessments. Annual training opportunities will be advertised on the Lee County Human and Veteran Services webpage, Facebook page, and solicited directly to service providers in the CoC's geographic area.

## B. TRAINING PROTOCOLS

The purpose of the annual Coordinated Entry training is to provide all staff administering assessments with access to materials and training that clearly describe the methods by which assessments are to be conducted with fidelity to the CoC's Coordinated Entry process, including its written policies and procedures.

Data Quality for all HMIS participating agencies will be monitored in accordance with the Lee County CoC Data Quality Plan, which is available on the Human Services website. (Link)

Coordinated entry training will include:

- (1) basic HMIS training including data quality and data security training
- (2) protocols for conducting assessments, including the CSN Policies and Procedures Manual;
- (3) training in the administration of the VI-SPDAT and Coordinated Assessment for participating agencies
- (4) a review of the Coordinated Entry Policies and Procedures, which include the requirements for prioritization and the criteria for uniform decision-making and referrals;
- (5) an overview of the requirements for use of assessment information to determine prioritization in accordance with CoC Written Standards

All training is tailored to the individual needs of the service agencies, but based primarily on the Coordinated Assessment CSN User Manual available on the HMIS webpage:

<https://www.leegov.com/dhs/csn/downloads>.

*Training protocols may vary by on agency. The general Coordinated Entry System training protocols will be reviewed and updated by the Coordinated Entry Committee annually.*

## V. PRIORITIZATION

Homelessness interventions, including Permanent Supportive Housing, Rapid Re-Housing, Rental Assistance, Joint Transitional Housing – Rapid Re-Housing, and Transitional Housing will be prioritized based on the severity of service needs and vulnerability. Of those eligible households the populations must be prioritized in accordance with The U.S. Interagency Council on Homelessness (USICH) plan, Home, Together, and other HUD guidance on prioritization of chronically homeless households and policy briefs on Coordinated Entry systems.

The CoC conducted multiple focus groups to determine which factors should be used in the CoC's dynamic prioritization system. In cases where multiple applicants have the same number of these vulnerability indicators, the applicant with the higher VI-SPDAT score will be prioritized for an appropriate intervention. Each prioritization will be made according to the approved Lee County CoC Written Standards, which have been established in accordance with 24 CFR 576.400(e) and 24 CFR 578.7(a)(9).

Lee County's Coordinated Entry system identifies and prioritizes service needs as follows:

- (1) **Tri-Morbidity:** The first prioritization criteria will expedite placement into supportive housing for individuals with severe physical, mental health, and substance abuse issues. This score would be based on questions 15-20, 21-22, and 23-24 of the vulnerability analysis, or 28 of the family vulnerability analysis
- (2) **Chronic Homelessness:** The second prioritization factor targets individuals and households who have experienced chronic homelessness, per HUD's definition of chronic homelessness. This score would be based on questions 1-3 of the vulnerability analysis, or 5-7 of the family vulnerability analysis.
- (3) **Physical Health:** The third prioritization criteria will expedite placement into housing for individuals and households with severe medical needs who are at greater risk of death. This score would be based on questions 15-20 of the vulnerability analysis, or 19-23 of the family vulnerability analysis.
- (4) **Abuse and Trauma:** The fourth prioritization factor targets individuals and households whose current period of homeless was caused by an experience of emotional, physical, psychological, sexual, or other type of abuse or by any other trauma that they have experienced. This score would be based on questions 27 of the vulnerability analysis, or 31 of the family vulnerability analysis.
- (5) **Mental Health:** The fifth prioritization factor targets individuals and households with behavioral health conditions, traumatic head injuries, learning disabilities, developmental disabilities, or other mental health impairments. This score would be based on questions 23-24 of the vulnerability analysis, or 26-27 of the family vulnerability analysis.
- (6) **COVID-19 Vulnerability due to age:** The sixth prioritization factor targets individuals and households who are at an elevated risk of suffering serious illness or death from COVID-19 due to advanced age. This score would be based on the Pre-Survey question in each version of VI-SPDAT which asks whether any head of household is 60 years old or older.
- (7) **COVID-19 Vulnerability due to chronic health condition:** The seventh prioritization factor targets individuals and households who are at an elevated risk of suffering serious illness or death from COVID-19 due to chronic health conditions. This score would be based on question 16 of the vulnerability analysis, or question 20 of the family vulnerability analysis.

Notwithstanding the prioritization system above, the Coordinated Entry System will accept referrals for justice-involved individuals from Lee County's High Need High Utilizer Task Force (HNHU) without requiring the completion of a VI-SPDAT. The number of referrals accepted from the HNHU will not exceed five households per calendar year.

In all programs, priority shall be given for eligible individuals and families who are relocating as per the Emergency Transfer Plan, and in accordance with 24 CFR 576.409. All CoC funded transitional housing, rapid re-housing, and permanent supportive housing programs will ensure that applicants are prioritized according to the emergency transfer priority required under 24 CFR 578.99(j)(8).

## VI. REFERRAL

Clients who are assessed and prioritized by Coordinated Entry will be added to the Connection List and referred to appropriate resources. To the greatest extent possible, referrals should be person-centric, not program-centric (i.e., the end result will not always be PSH placement, but rather to match a highly vulnerable person to another appropriate housing resource). Individuals and agencies making referrals will make every effort to consider the individuals strengths, goals, risks, lived experiences, and choices in the referral process.

### A. COORDINATED ENTRY

All individuals and families seeking permanent housing resources must be referred through Lee County's Coordinated Entry System. To be connected with these housing resources, an individual or family must:

- (1) Complete a Housing Needs Assessment (Coordinated Assessment) at a Coordinated Entry Access Point
- (2) Connect with outreach or shelter staff to complete the appropriate Crisis Needs Assessment
  - (a) VI-SPDAT (Individuals)
  - (b) F-VI-SPDAT (Families)
  - (c) Y-VI-SPDAT (Youth)
- (3) Obtain Homeless Verification (Or self-certification for those fleeing Domestic Violence)
- (4) Obtain other documents as required by each housing program

### B. CONNECTION LIST MEETINGS

Connection List meetings, formerly known as By Name List Committee meetings, are held to connect individuals and families experiencing homelessness to housing resources, and will address the needs of high risk individuals and those where the assessment process did not reveal the full depth and/or urgency of their situation. The meetings will be attended by representatives from the CoC Lead Agency, the HMIS Lead Agency, and agencies funded with CoC, ESG, TANF, Challenge Grant, and other federal, state, and local funds. Case managers, housing coordinators, street outreach workers, and shelter staff should attend these meetings to facilitate the housing process.

*Agencies funded through the Lee County Human and Veterans Services with one of the funding sources identified above MUST attend each Connection List Meeting.*

In the context of the Coordinated Entry process, determining eligibility is a project-level process governed by written standards as established in 24 CFR 576.400(e) and 24 CFR 578.7(a)(9). Coordinated entry processes incorporate mechanisms for determining whether potential participants meet project-specific requirements of the projects for which they are prioritized and to which they are referred.

**The assessment process cannot require disclosure of specific disabilities or diagnosis. Specific diagnosis or disability information may only be obtained for purposes of determining program eligibility to make appropriate referrals.** Projects or units may be legally permitted to limit eligibility, e.g., to persons with disabilities, through a Federal statute which requires that assistance be utilized for a specific population, e.g., the HOPWA program, through State or local permissions in instances where Federal funding is not used and Federal civil rights laws are not violated.

## VII. PROGRAM STANDARDS

### A. ELIGIBILITY

For all ESG and CoC funded permanent housing programs, households must meet both the HUD definition of homelessness under **Category 1** or **Category 4**.

For beds prioritized for Chronically Homeless individuals and families, the head of household must have a qualifying disability and meet all of the criteria required as defined in 24 CFR 578.3. Once meeting the Category 1 or Category 4 and disability requirements, households are then prioritized as indicated below.

### B. PRIORITIZATION

Lee County's Coordinated Entry system identifies and prioritizes service needs in accordance with Section V: Prioritization, above.

### C. MINIMUM STANDARDS

#### 1. Permanent Supportive Housing

Permanent Supportive Housing (PSH) can only assist 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, but should not be required as a condition to remaining in housing.

All referrals to permanent supportive housing will be made through Coordinated Entry. The following minimum standards will be applied to all permanent housing programs:

- (a) Support services must be made available throughout the duration of stay in housing.
- (b) Program participants must enter into a lease agreement for a term of at least one year, which is terminable for cause. The lease must be automatically renewable upon expiration for terms that are a minimum of one month long, except on prior notice by either party.
- (c) There is no designated length of stay for program participants.

#### 2. Rental Assistance

Tenant, Sponsor, or Project-Based Rental Assistance 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, but should not be required as a condition to remaining in housing.

##### a) *CoC Project Based Rental Assistance*

Program participants are required to pay a portion of their rent if they are receiving CoC Program Rental Assistance, unless they have no income at all. In permanent supportive housing and transitional housing projects,<sup>xvii</sup> the program participant's rent contribution **must be equal to the highest of:**

- (a) 30% of the family's monthly adjusted income (adjustment factors include allowances and deductions for disabled household members, medical expenses, childcare expenses, etc.);
- (b) 10% of the family's monthly gross income; or
- (c) Portion of welfare payments specifically designated by the public welfare agency to meet the family's housing costs.

Rental Assistance providers must assess, at least quarterly, each program participant's income to calculate the program participants rent contribution, and to determine the amount the recipient must pay toward rent. If the participant is required to pay for utilities, then a utility allowance must be factored into the rent calculation determination.

b) *HOME Tenant Based Rental Assistance*

Housing selected should not exceed Fair Market Value (FMV) and most importantly, be affordable to the client according to household size and income. HUD provides maximum HOME rent limits.<sup>xviii</sup>

The maximum HOME rents are the lesser of:

- (a) The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111; or
- (b) A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit.

The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions. If staff cannot locate, or if the client needs, housing that exceeds FMV, County Homeless (or other non-federal funds) may be used or the client may pay the difference, if able.

Program participants are required to pay a portion of their rent if they are receiving rental assistance, unless they have no income at all. Rental Assistance providers must assess each program participant's income to calculate the program participants rent contribution, and to determine the amount the recipient must pay toward rent. If the participant is required to pay for utilities, then a utility allowance must be factored into the rent calculation determination.

c) *Supportive Services for Veteran Families (SSVF)*

Direct referrals will be made from Coordinated Entry for veterans served through Supportive Services for Veteran Families (SSVF) due to the amount of funding currently available for the program. SSVF will continue to prioritize placements based on the vulnerability analysis scores, and continue to work with providers to streamline processes in order to make progress towards accepting referrals.

### 3. Rapid Re-Housing

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.<sup>xix</sup> All rapid rehousing program must use the "Just Enough Assistance" principle to ensure that the minimum assistance necessary for a household to obtain and maintain stable housing is provided for the shortest period of time possible. Barriers to housing stability are identified at the outset of services and supports are provided to eliminate those barriers and improve the household's ability to sustain housing. Rapid Re-Housing programs should provide the lightest touch possible for financial assistance, with the goal of ending financial assistance as quickly as possible, while ensuring long-term housing stability. Households are expected to contribute at least 30 percent of their total household income toward the payment of rent to encourage self-sufficiency and long-term sustainability.

All referrals to rapid re-housing will be made through Coordinated Entry. The following minimum standards will be applied to all ESG and CoC funded rapid re-housing programs:

- (a) Support services in compliance with 24 CFR Part 576.10 (ESG) or 24 CFR 578.53 (CoC) must be made available throughout the duration of stay in housing.
- (b) ESG-CV program assistance cannot be conditioned upon participation in services or classes, complying with work requirements, etc. or meeting conditions such as sobriety, medication compliance, etc., either before or after entry into the program.
- (c) Program participants must enter into a written lease agreement between the owner and program participant. The lease term must be at least one year, which is terminable for cause, and the lease



must be automatically renewable upon expiration for terms that are a minimum of one month long, except on prior notice by either party.

- (d) Maximum participation in ESG and CoC funded rapid re-housing programs cannot exceed 12 months.
- (e) For ESG funded rapid re-housing programs, an income assessment is not required at initial evaluation. At re-evaluation — which must take place not less than once annually for rapid re-housing — the participant's household must have an annual income that does not exceed 30% of AMI, or 50% of AMI for ESG-CV funds. Program participants must be re-evaluated not less than once quarterly to ensure that the type and amount of assistance being received is necessary to retain housing.
- (f) Program participant must meet with a case manager not less than once per month<sup>xx</sup> 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<sup>xxi</sup> or the Family Violence Prevention and Services Act<sup>xxii</sup> prohibits the recipient carrying out the project from making its housing conditional on the participant's acceptance of services.
  - i. Supportive Services may not be received for longer than 6 months after rental assistance has ended.
  - ii. Case managers must craft a "program exit plan" with all individuals or families placed in any Rapid Re-Housing program within one week before or after the Housing Move-In Date. While no specific form of this plan is required, each plan should include, at minimum:
    - i. The steps that will be completed by the client to establish sufficient income to maintain housing without rental assistance from the Rapid Re-Housing Program.
- (g) The rent charged for a unit must be reasonable in relation to rents currently being charged for comparable units in the private unassisted market and must not be in excess of rents currently being charged by the owner for comparable unassisted units. When possible the rent must not exceed:
  - i. The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111;
  - ii. 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit.
  - iii. **For ESG funded programs:** Rents must be reasonable and below fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111, unless a HUD approved waiver is in place
- (h) The amount of grant funds used to pay monthly assistance for an eligible person may not exceed the difference between:
  - i. The lower of the rent standard or reasonable rent for the unit; and
  - ii. The resident's rent payment calculated under § 574.310(d).
- (i) The amount of financial assistance granted may include all rental application fees, security deposits (not to exceed 2 months), last month's rent, moving expenses, and utility deposits.

#### **4. Joint Transitional Housing – Rapid Re-Housing**

Joint Transitional Housing-Rapid Re-Housing (TH-RRH) facilitates the movement of homeless individuals and families to Permanent housing (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.

All referrals to joint transitional housing and rapid re-housing must be made through Coordinated Entry. The following minimum standards will be applied to all joint transitional housing and rapid re-housing programs:

- (a) Maximum length of stay cannot exceed 24 months.
- (b) Assistance in transitioning to permanent housing must be made available/provided.



- (c) Supportive services must be provided throughout the duration of stay in transitional housing.
- (d) Program participants in transitional housing must enter into a lease, sublease or occupancy agreement for a term of at least one month. The lease, sublease or occupancy agreement must be automatically renewable upon expiration, except on prior notice by either party, up to a maximum of 24 months.

## 5. Transitional Housing

Transitional housing (TH) facilitates the movement of homeless individuals and families to Permanent housing (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.

All referrals to transitional housing must be made through the Coordinated Entry. The following minimum standards will be applied to all transitional housing programs:

- (a) Maximum length of stay cannot exceed 24 months.
- (b) Assistance in transitioning to permanent housing must be made available/provided.
- (c) Supportive services must be provided throughout the duration of stay in transitional housing.

Program participants in transitional housing must enter into a lease, sublease or occupancy agreement for a term of at least one month. The lease, sublease or occupancy agreement must be automatically renewable upon expiration, except on prior notice by either party, up to a maximum of 24 months.

## 6. Emergency Shelter

Emergency shelter provides temporary shelter for persons experiencing homelessness and does not require occupants to sign leases or occupancy agreements. Emergency shelters must be low barrier and housing focused, working to connect persons residing in the shelter with permanent housing resources as quickly as possible.

All referrals to the shelter will be made from street outreach or other designated homeless assistance program after any client has completed a Coordinated Assessment through Coordinated Entry, or directly from Law Enforcement, Lee Health. The following minimum standards will be applied to all emergency shelter programs:

- (a) Assistance in transitioning to permanent housing must be made available/provided.
- (b) Supportive services must be made available throughout the duration of stay in the emergency shelter.

## 7. Street Outreach

Street outreach efforts are linked to Coordinated Entry. Outreach staff receive referrals from Coordinated Entry, and engage clients within 72 hours. After initial engagement, outreach staff conduct Vulnerability Assessments with clients, as necessary. Lee County ensures that outreach workers have adequate access to both paper and electronic methods of administering a Vulnerability Assessment. Outreach staff are provided regular training to ensure that assessments are administered consistently across the CoC.

All referrals to homelessness assistance projects must be made through Coordinated Entry. Street outreach efforts must actively engage the unsheltered homeless population for the purposes of providing immediate support, interventions, and connections with homeless assistance programs and/or mainstream services. Additional minimum standards are assigned based on funding source.

## 8. Prevention Services

Lee County CoC homelessness prevention programs provide rental assistance, utility assistance, and supportive services to at risk and otherwise eligible individuals and families to prevent homelessness. Clients may access homelessness prevention services through Coordinated Entry or directly through any agency administering prevention programs. All prevention programs must integrate diversion practices, and adhere to the "just enough assistance" principle to ensure housing stability. Additional minimum standards may be assigned based on funding source.

## VIII. PLANNING

### A. STAKEHOLDER CONSULTATION

The Lee County CoC and HMIS Lead Agency facilitates ongoing planning and stakeholder consultation concerning the implementation of the Coordinated Entry System through Coordinated Entry Committee Meetings. The Committee is intended to develop an accurate picture of the number and characteristics of Lee County persons who are homeless in order to provide targeted assistance. In addition to collecting information, objectives include developing a provider survey to establish resources and identify gaps, and provide a user group for HMIS users for training and updates.

In addition to Committee meetings, the Lee County CoC solicits feedback annually from funded agencies and households that participated in Coordinated Entry to gather data regarding the quality and effectiveness of the entire Coordinated Entry experience. Data is gathered through the following methods:

- (1) Surveys:
  - (a) A survey will be made available to gather data from individuals who have participated in the Coordinated Entry system. Clients will be notified by their caseworkers that the survey is available and feedback is appreciated.
  - (b) A survey to gather data from funded agencies is sent during the month of January by the Lee County Homeless Coalition. Agencies are notified via direct e-mail of the availability of the survey.
- (2) An annual focus session conducted during at least one Coordinated Entry Committee meeting, and at least one Connection Meeting.

The Lee County CoC and HMIS Lead Agency evaluate the feedback received and make necessary updates to the Coordinated Entry process, and these written policies and procedures if necessary to improve user experience.

### B. QUALITY EVALUATION

Annual Coordinated Entry System monitoring will be conducted by the HMIS lead agency, and will include a review of system performance measures, participating agency survey data, client survey data, and adherence to the requirements of these policies. The monitoring report will be presented to the CoC Governing Board and general membership for review and feedback.

### C. DISCHARGE PLANNING

Each CoC service provide must develop and implement, to the maximum extent practicable, policies and protocols for the discharge of persons from public funded institutions and 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.<sup>xxiii</sup>

CoC and ESG funded service providers will be monitored annually by Lee County to ensure compliance with the standards and laws listed above. The monitoring will ensure that appropriate discharge policies, procedures, and practices have been developed and implemented. The monitoring report will include any findings or concerns related to discharge planning.

## D. SYSTEM PERFORMANCE

A critical aspect of the McKinney-Vento Homeless Assistance Act, (the “Act”) as amended, is a focus on viewing the local homeless response as a coordinated system of homeless assistance as opposed to homeless assistance programs and funding sources that operate independently in a community. To facilitate this perspective the Act now requires communities to measure their performance as a coordinated system in addition to analyzing performance by specific projects or project types.

With the 2016 CoC funding round, HUD introduced a series of system performance measures requiring each CoC to provide reporting that aggregates data from each individual program in response to a series of performance based elements describing the efficacy of the CoC. To this end, the Act established a set of criteria for HUD to use that require all CoCs to report their system-level performance to HUD. The intent of this criteria or “system performance measures, is to encourage CoCs and ESG program recipients, as well as all other homeless assistance stakeholders in the CoC, to regularly measure their progress in meeting the needs of people experiencing homelessness in their community and to report this progress to HUD.

The following provides the resulting system performance measures that each program—emergency, rapid rehousing, transitional and permanent housing—will similarly be measured, as applicable to program type.

	RELEVANT PROJECT TYPE*					SYSTEM PERFORMANCE MEASURES and CoC GOALS
	SO	ES	RRH	TH	PH	
1a		X	X	X	X	<b>Length of Time Persons Remain Homeless</b> <ul style="list-style-type: none"> <li>• Average length of time persons in ES and SH. <b>Goal: &lt;30</b></li> <li>• Average length of time persons in ES, SH, and TH. <b>Goal: &lt;45</b></li> </ul>
1b		X	X	X	X	<b>Length of Time Persons Remain Homeless</b> <ul style="list-style-type: none"> <li>• Average length of time persons in ES, SH and PH. <b>Goal: &lt;120</b></li> <li>• Average length of time persons in ES, SH, TH, and PH. <b>Goal: &lt;120</b></li> </ul>
2		X	X	X	X	<b>Returns to Homelessness</b> Measurement of clients exiting from any project type to a permanent housing destination in the date range two years prior to the production of the system performance report as follows: <ul style="list-style-type: none"> <li>• Percentage of those exiting from ES who returned to homelessness. <b>Goal: &lt;30%</b></li> <li>• Percentage of those exiting from TH returning to homelessness. <b>Goal: &lt;10%</b></li> <li>• Percentage of those exiting from PH returning to homelessness. <b>Goal: &lt;10%</b></li> </ul>
3		X	X			<b>Number of Homeless Persons</b> Measurement of the change in the CoC’s total annual count of sheltered ES and TH homeless persons in HMIS. This metric only has relevance in the aggregate, as such, individual projects are not expected to use this measure.
4			X	X	X	<b>Employment and Income Growth for Persons in CoC Programs during the reporting period</b> <ul style="list-style-type: none"> <li>• Measurement of the percentage of adults (among stayers) who increased their earned income. <b>Goal: 45%</b></li> <li>• Measurement of the percentage of adult stayers who increased their non-employment cash income. <b>Goal: 45%</b></li> <li>• Measurement of the percentage of adult stayers who increased their total income <b>Goal: 45%</b></li> <li>• Measurement of the percentage of adults (among leavers) who increased their earned income. <b>Goal: 45%</b></li> <li>• Measurement of the percentage of adult leavers who increased their non-employment cash income. <b>Goal: 45%</b></li> <li>• Measurement of the percentage of adult leavers who increased their total income. <b>Goal: 45%</b></li> </ul>

5		X	X	X	X	<b>Number of Persons who Become Homeless for the First Time</b> <ul style="list-style-type: none"> <li>Change in number of active participants in ES and TH projects who were not previously enrolled in HMIS. <b>Goal: &gt;80%</b></li> <li>Change in number of persons entering ES, TH and PH with no prior enrollment in HMIS. <b>Goal: &gt;80%</b></li> </ul>
6						<b>Reserved.</b>
7		X	X	X	X	<b>Successful Placement from Street Outreach and Successful Placement in or Retention of Permanent Housing.</b> <ul style="list-style-type: none"> <li>Measurement of the change in exits to permanent housing destinations. <b>Goal: &gt;65%</b></li> <li>Measurement of the change in exits or retention of permanent housing from ES, SH, TH, and PH-RRH. <b>Goal: &gt;75%</b></li> <li>Measurement of the change in exits or retention of permanent housing from PH (Not including PH-RRH). <b>Goal: &gt;85%</b></li> </ul>

Whereas system performance measures are intended to provide a snapshot into the homeless response system as an entire coordinated initiative, project performance measures takes a closer look at each project within the CoC. The standards provided below establish the performance standards set by this CoC in assessing and evaluating each project's performance, individually. On August 6, 2020, the CoC Governing Board established the following performance targets for all CoC and ESG funded projects:

- (1) 75% of persons in ES,SH, TH, or PH-RRH should be exited to permanent housing destinations
- (2) 45% of persons in CoC and ESG funded programs should maintain OR increase their income
- (3) No more than 30% of persons who were exited from CoC and ESG funded ES and no more that 10% of persons who were exited from CoC and ESG funded TH, PH, and PH-RRH programs should return to homelessness within 1 year

## E. APPEAL PROCESS

The CoC Written Standards outline that the most severe service needs will be determined by the household's Coordinated Assessment and VI-SPDAT, and will prioritize according to these written standards.- In the event that two or more homeless households within the same geographic area are identically prioritized for referral to the next available unit, and each household is also eligible for referral to that unit, the household that first presented for assistance will be referred to the next available unit. In the event that an individuals or family wishes to appeal a Coordinated Entry Assessment result, they shall make an appeal to the Lee County Human and Veteran Services using the Applicant/Client Appeal and Grievance Policy. Appeals for program denial shall be made directly to the agency which conducts such program, according to the agencies appeal or grievance policy.

Staff administering assessments and/or the staff supervisor should address any client complaints, whether discrimination based or not, as best as they can in the moment. Complaints that should be addressed directly by the assessment staff member or assessment staff supervisor include complaints about how they were treated by assessment staff, assessment center conditions, or violation of data agreements. Any other complaints should be referred to the Connection List Meetings for resolution as above. Any complaints filed by a client should note their name and contact information so they can be contacted.

## **IX. ATTACHMENT 1**

# **Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

### **A. EMERGENCY TRANSFERS**

Lee County and other local CoC, HOME or ESG funded housing providers are concerned about the safety of our tenants and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA), Lee County along with other applicable housing providers allow tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation. The ability of Lee County and other applicable housing providers to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether Lee County or other applicable housing providers has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the Federal agency that ensures that the rapid re-housing, tenant based rental assistance, and all other CoC, ESG, and HOME funded rental assistance programs are in compliance with VAWA.

### **B. ELIGIBILITY FOR EMERGENCY TRANSFERS**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer, if: the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer. A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan. Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

### **C. EMERGENCY TRANSFER REQUEST DOCUMENTATION**

To request an emergency transfer, the tenant shall notify Lee County or other applicable housing provider's management office and submit a written request for a transfer to the assigned case manager. Tenant may, but is not required, to use the Emergency Transfer Request form provided in the attached Appendix C. Lee County and other applicable housing providers will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

- (1) A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under Lee County or other applicable housing provider's program; **OR**
- (2) A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.



## D. CONFIDENTIALITY

Lee County and other applicable housing providers will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives Lee County and other applicable housing providers written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence Against Women Act. For All Tenants, Lee County and other applicable housing providers are responsible to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

## E. EMERGENCY TRANSFER TIMING AND AVAILABILITY

Lee County or other applicable housing providers cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. Lee County or other applicable housing providers will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. Lee County or other applicable housing provider may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If Lee County or other applicable housing providers have no safe and available units for which a tenant who needs an emergency transfer is eligible, Lee County or other applicable housing providers will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, Lee County or other applicable housing providers will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

## F. SAFETY AND SECURITY OF TENANTS

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

## X. APPENDIX TABLE

Appendix A	Notice of Occupancy Rights under the Violence Against Women Act
Appendix B	Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
Appendix C	Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
Appendix D	Coordinated Entry Workflows
Appendix E	Endnotes



# XI. APPENDIX A

## LEE COUNTY CONTINUUM OF CARE LEE COUNTY HUMAN AND VETERAN SERVICES

### Notice of Occupancy Rights under the Violence Against Women Act

To all Tenants and Applicants The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation. The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that the Rapid Re-Housing, Tenant Based Rental Assistance, and all other CoC, ESG, and HOME rental assistance programs are in compliance with VAWA. This notice explains your rights under VAWA.

***A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.***

#### Protections for Applicants

If you otherwise qualify for assistance under the Rapid Re-Housing, Tenant Based Rental Assistance, or any other CoC, ESG, and HOME funded rental assistance programs, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

#### Protections for Tenants

If you are receiving assistance under the Rapid Re-Housing, Tenant Based Rental Assistance, or any other CoC, ESG, and HOME funded rental assistance programs, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the Rapid Re-Housing, Tenant Based Rental Assistance, or any other CoC, ESG, and HOME funded rental assistance programs solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

#### Removing the Abuser or Perpetrator From the Household

Lee County or any other CoC or ESG funded housing provider may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If Lee County or any other CoC or ESG funded housing provider chooses to remove the abuser or perpetrator, Lee County or any other CoC or ESG funded housing provider may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, Lee County or any other CoC or ESG funded housing provider must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, Lee County or any other CoC or ESG funded housing provider must follow Federal, State, and local eviction procedures. In order to divide a lease, Lee County or any other CoC or ESG funded housing provider may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

#### Moving to Another Unit

Upon your request, Lee County or any other CoC or ESG funded housing provider may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, Lee County or any other CoC or ESG funded housing provider may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- (1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** *(If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.), AND*
- (2) You expressly request the emergency transfer.** *(Your housing provider may choose to require that you submit a form, or may accept another written or oral request.), AND*

## APPENDIX A

**(3a) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** *(This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.)*

**OR**

**(3b) You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** *(If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.)*

Lee County or any other CoC or ESG funded housing provider will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

Lee County or any other CoC or ESG funded housing provider's emergency transfer plan provides further information on emergency transfers, and Lee County or any other CoC or ESG funded housing provider must make a copy of its emergency transfer plan available to you if you ask to see it.

### **Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

Lee County or any other CoC or ESG funded housing provider can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from Lee County or any other CoC or ESG funded housing provider must be in writing, and Lee County or any other CoC or ESG funded housing provider must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. Lee County or any other CoC or ESG funded housing provider may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to Lee County or any other CoC or ESG funded housing provider as documentation. It is your choice which of the following to submit if Lee County or any other CoC or ESG funded housing provider asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

1. A complete HUD-approved certification form given to you by Lee County or any other CoC or ESG funded housing provider with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
2. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
3. A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
4. Any other statement or evidence that Lee County or any other CoC or ESG funded housing provider has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, Lee County or any other CoC or ESG funded housing provider does not have to provide you with the protections contained in this notice.

If Lee County or any other CoC or ESG funded housing provider receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), Lee County or any other CoC or ESG funded housing provider has the right to request that you provide third-party documentation within thirty (30) calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, Lee County or any other CoC or ESG funded housing provider does not have to provide you with the protections contained in this notice.

### **Confidentiality**

Lee County or any other CoC or ESG funded housing provider must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

Lee County or any other CoC or ESG funded housing provider must not allow any individual administering assistance or other services on behalf of Lee County or any other CoC or ESG funded housing provider (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

Lee County or any other CoC or ESG funded housing provider must not enter your information into any shared database or disclose your information to any other entity or individual. Lee County or any other CoC or ESG funded housing provider, however, may disclose the information provided if:

## APPENDIX A

1. You give written permission to Lee County or any other CoC or ESG funded housing provider to release the information on a time limited basis.
2. Lee County or any other CoC or ESG funded housing provider needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
3. A law requires Lee County or any other CoC or ESG funded housing provider or your landlord to release the information.

VAWA does not limit Lee County or any other CoC or ESG funded housing provider's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

### Reasons a Tenant Eligible for Occupancy Rights Under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, Lee County or any other CoC or ESG funded housing provider cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if Lee County or any other CoC or ESG funded housing provider can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If Lee County or any other CoC or ESG funded housing provider can demonstrate the above, Lee County or any other CoC or ESG funded housing provider should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

### Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

### Non-Compliance With The Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with HUD Miami Field Office, Brickell Plaza Federal Building, 909 SE First Ave, Room 500, Miami, FL 33131-3028, Phone: 350-536-5678, Fax: 350-536-5765.

### Additional Information

You may view a copy of HUD's final VAWA rule at:

<https://www.federalregister.gov/documents/2016/11/16/2016-25888/violence-against-women-reauthorization-act-of-2013-implementation-in-hud-housing-programs>.

Additionally, Lee County or any other CoC or ESG funded housing provider must make a copy of HUD's VAWA regulations available to you upon request. For questions regarding VAWA or to request a copy of the regulation, please contact Jeannie Sutton, Grants Coordinator, Lee County Human and Veteran Services, 2440 Thompson St., Fort Myers, FL 33901, Phone: 239-533-7958, Fax: 239-533-7960, E-mail: [jsutton@leegov.com](mailto:jsutton@leegov.com).

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding an abusive relationship, sexual assault or stalking, you may also contact Abuse Counseling & Treatment's 24-Hour Hotline at 239-939-3112.

## XII. APPENDIX B

### **Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

**Purpose of Form:** The Violence Against Women Reauthorization Act of 2013 ("VAWA") protects qualified tenants, participants, and applicants, and affiliated individuals, who are victims of domestic violence, dating violence, sexual assault, or stalking from being denied housing assistance, evicted, or terminated from housing assistance based on acts of such violence against them.

**Use of Form:** This is an optional form. A Public Housing Authority (PHA), owner or manager presented with a claim for continued or initial tenancy or assistance based on status as a victim of domestic violence, dating violence, sexual assault, or stalking (herein referred to as "Victim") has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. The

Victim has the option of either submitting this form or submitting third-party documentation, such as:

- (1) A record of a Federal, State, tribal, territorial, or local law enforcement agency (e.g. police), court, or administrative agency; or
- (2) Documentation signed by the Victim and signed by an employee, agent or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional from whom the Victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) that he or she believes that the incident of domestic violence, dating violence, sexual assault, or stalking is grounds for protection under 24 Code of Federal Regulations (CFR) § 5.2005 or 24 CFR § 5.2009.

If this form is used by the Victim, the Victim must complete and submit it within 14 business days of receiving it from the PHA, owner or manager. This form must be returned to the person and address specified in the written request for the certification. If the Victim does not complete and return this form (or provide third-party verification) by the 14th business day or by an extension of the date provided by the PHA, manager or owner, the Victim cannot be assured s/he will receive VAWA protections.

If the Victim submits this form or third-party documentation as listed above, the PHA, owner or manager cannot require any additional evidence from the Victim.

**Confidentiality:** All information provided to a PHA, owner or manager concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking relating to the Victim (including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking) shall be kept confidential by the PHA, owner or manager, and such information shall not be entered into any shared database. Employees of the PHA, owner, or manager are not to have access to these details unless to afford or reject VAWA protections to the Victim; and may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) requested or consented to by the Victim in writing; (ii) required for use in an eviction proceeding; or (iii) otherwise required by applicable law.

**APPENDIX B**

**TO BE COMPLETED BY THE VICTIM OF DOMESTIC VIOLENCE,  
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING:**

Date Written Request Received by Victim: \_\_\_\_\_

Name of Victim: \_\_\_\_\_

Names of Other Family Members Listed on the Lease: \_\_\_\_\_

Name of the Perpetrator\*: \_\_\_\_\_

\*Note: The Victim is required to provide the name of the perpetrator only if the name of the perpetrator is safe to provide, and is known to the victim.

Perpetrator's Relationship to Victim: \_\_\_\_\_

Date(s), time(s), and location(s) of the incident(s) of Domestic Violence, Dating Violence, Sexual Assault, or Stalking Occurred: \_\_\_\_\_

Description of Incident(s) (This description may be used by the PHA, owner or manager for purposes of evicting the perpetrator. Please be as descriptive as possible.):


I hereby certify that the information that I have provided is true and correct and I believe that, based on the information I have provided, that I am a victim of domestic violence, dating violence, sexual assault or stalking. I acknowledge that submission of false information is a basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Executed on (Date) \_\_\_\_\_

*Information provided is to be used by PHAs and Section 8 owners or managers to request a tenant to certify that the individual is a victim of domestic violence, dating violence or stalking. The information is subject to the confidentiality requirements of the HUD Reform Legislation. This agency may not collect this information, and you are not required to complete this form.*





## XIII. APPENDIX C

### Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

(1) **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Appendix B – Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD50066), or any one of the other types of documentation listed on that Form.

(2) **You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer.** Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(3) **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future. **OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: 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 you have sought assistance; a current restraining order; a recent court order or other court records; a 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.

**Confidentiality:** All information provided to your housing provider concerning the incident( s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.



TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

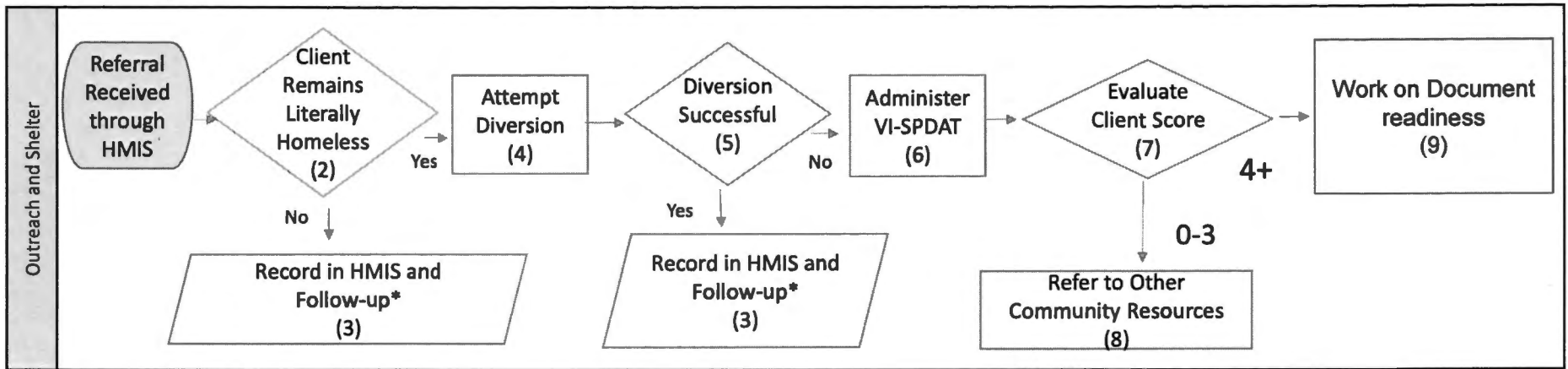
1. Name of victim requesting and emergency transfer: \_\_\_\_\_
2. Your name (if different from victim's): \_\_\_\_\_
3. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_  
\_\_\_\_\_
4. Name(s) of other family member(s) who would transfer with the victim: \_\_\_\_\_  
\_\_\_\_\_
5. Address of location from which the victim seeks to transfer: \_\_\_\_\_  
\_\_\_\_\_
6. Victim's phone number: \_\_\_\_\_
7. Name of the accused perpetrator (if known and can be safely disclosed):  
\_\_\_\_\_
8. Relationship of the accused perpetrator to the victim: \_\_\_\_\_
9. Date(s), time(s), and location(s) of the incident(s): \_\_\_\_\_  
\_\_\_\_\_
10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking transfer?  NO  YES *If yes, skip question 11.*
11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
12. If voluntarily provided, list any third-party documentation you are providing along with this notice:  
\_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination or assistance, or eviction.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**XIV. APPENDIX D**  
**COORDINATED ENTRY WORKFLOW**

FL-603 Lee County CoC  
Coordinated Entry Assessment Call Process



- (1) Referral Received through HIMS: Outreach/shelter makes contact with client through referral process
- (2) Client Remains Literally Homeless: Verify client remains unhoused or in ES/TH. YES: UW proceeds with CES. NO:
- (3) Record in HMIS and Follow-up: Record successful diversion measures in HMIS
- (4) Attempt Diversion:
- (5) Diversion Successful: YES: Client finds alternative housing option (family/friend) **and/or in connected with min. financial assistance necessary to obtain housing**. NO: Client cannot identify an alternative at the moment, UW proceeds with CES.
- (6) Administer VI-SPDAT: Follows script for VI-SDPAT.
- (7) Evaluate Client Score: UW reviews score: 0-3 = referral to other sources; 4+ = UW proceeds with CES.
- (8) Refer to Other Community Resources: Other resources include utility assistance, budget classes, job training, resume assistance, food pantries. Update HMIS
- (9) Work on Document Readiness: Record score in HMIS. Client will automatically be added to the connection list

# XV. APPENDIX E

## ENDNOTES

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- <sup>i</sup> (24 CFR Part 578).  
<sup>ii</sup> (consistent with 24 CFR 578.75(h))  
<sup>iii</sup> (42 U.S.C. 11360(9))  
<sup>iv</sup> In accordance with 24 CFR 578.103,  
<sup>v</sup> (Federal Register Document #2016-25888)  
<sup>vi</sup> (24 CFR 5.2005 (b)(1))  
<sup>vii</sup> (24 CFR 5.2005 (d)(3))  
<sup>viii</sup> (24 CFR part 92)  
<sup>ix</sup> (24 CFR part 93)  
<sup>x</sup> (24 CFR part 570)  
<sup>xi</sup> (24 CFR part 574)  
<sup>xii</sup> (24 CFR part 576)  
<sup>xiii</sup> (24 CFR part 578)  
<sup>xiv</sup> (24 CFR part 579)  
<sup>xv</sup> (42 USC 11361a)  
<sup>xvi</sup> as specified by Florida Statute § 39.201(1)(a)  
<sup>xvii</sup> (24 CFR 578.77(c))  
<sup>xviii</sup> 24 CFR Part 92.252  
<sup>xix</sup> 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).  
<sup>xx</sup> (24 CFR 578.37(a)(1)(ii)(F))  
<sup>xxi</sup> (42 U.S.C. 13925 et seq.)  
<sup>xxii</sup> (42 U.S.C. 10401 et seq.)  
<sup>xxiii</sup> (42 USC 11362)



# FEDERAL REGISTER

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Part II

Department of Housing and Urban  
Development

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24 CFR Part 578  
Homeless Emergency Assistance and Rapid Transition to Housing:  
Continuum of Care Program; Interim Final Rule

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

**24 CFR Part 578**

[Docket No. FR-5476-I-01]

RIN 2506-AC29

**Homeless Emergency Assistance and  
Rapid Transition to Housing:  
Continuum of Care Program**

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Interim rule.

**SUMMARY:** The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act), enacted into law on May 20, 2009, consolidates three of the separate homeless assistance programs administered by HUD under the McKinney-Vento Homeless Assistance Act into a single grant program, and revises the Emergency Shelter Grants program and renames it the Emergency Solutions Grants program. The HEARTH Act also codifies in law the Continuum of Care planning process, a longstanding part of HUD's application process to assist homeless persons by providing greater coordination in responding to their needs. The HEARTH Act also directs HUD to promulgate regulations for these new programs and processes.

This interim rule focuses on regulatory implementation of the Continuum of Care program, including the Continuum of Care planning process. The existing homeless assistance programs that comprise the Continuum of Care program are the following: the Supportive Housing program, the Shelter Plus Care program, and the Moderate Rehabilitation/Single Room Occupancy (SRO) program. This rule establishes the regulations for the Continuum of Care program, and, through the establishment of such regulations, the funding made available for the Continuum of Care program in the statute appropriating Fiscal Year (FY) 2012 funding for HUD can more quickly be disbursed, consistent with the HEARTH Act requirements, and avoid any disruption in current Continuum of Care activities.

**DATES:** *Effective Date:* August 30, 2012.

*Comment Due Date:* October 1, 2012.

**ADDRESSES:** Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, 451 7th Street SW., Room 10276, Department of Housing and Urban Development, Washington, DC 20410-0500. Communications must refer to the above

docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410-0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the [www.regulations.gov](http://www.regulations.gov) Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

*No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

*Public Inspection of Public Comments.* All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Ann Marie Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410-7000; telephone number 202-708-4300 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number through TTY by calling the

Federal Relay Service at 800-877-8339 (this is a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

*Purpose of and Legal Authority for This Interim Rule*

This interim rule implements the Continuum of Care program authorized by the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act). Section 1504 of the HEARTH Act directs HUD to establish regulations for this program. (See 42 U.S.C. 11301.) The purpose of the Continuum of Care program is to promote communitywide commitment to the goal of ending homelessness; 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 homeless individuals, families, and communities by homelessness; promote access to and effective utilization of mainstream programs by homeless individuals and families; and optimize self-sufficiency among individuals and families experiencing homelessness.

The HEARTH Act streamlines HUD's homeless grant programs by consolidating the Supportive Housing, Shelter Plus Care, and Single Room Occupancy grant programs into one grant program: The Continuum of Care program. Local continuums of care, which are community-based homeless assistance program planning networks, will apply for Continuum of Care grants. By consolidating homeless assistance grant programs and creating the Continuum of Care planning process, the HEARTH Act intended to increase the efficiency and effectiveness of coordinated, community-based systems that provide housing and services to the homeless. Through this interim final rule, HUD will implement the Continuum of Care program by establishing the framework for establishing a local continuum of care and the process for applying for Continuum of Care grants.

*Summary of Major Provisions*

The major provisions of this rulemaking relate to how to establish and operate a Continuum of Care, how to apply for funds under the program, and how to use the funds for projects approved by HUD. These provisions are summarized below.

1. *General Provisions (Subpart A):* The Continuum of Care program includes transitional housing, permanent supportive housing for



disabled persons, permanent housing, supportive services, and Homeless Management Information Systems (HMIS). To implement the program, HUD had to define several key terms. In particular, HUD distinguishes between "Continuum of Care," "applicant," and "collaborative applicant." A "Continuum of Care" is a geographically based group of representatives that carries out the planning responsibilities of the Continuum of Care program, as set out in this regulation. These representatives come from organizations that provide services to the homeless, or represent the interests of the homeless or formerly homeless. A Continuum of Care then designates certain "applicants" as the entities responsible for carrying out the projects that the Continuum has identified through its planning responsibilities. A "Continuum of Care" also designates one particular applicant to be a "collaborative applicant." The collaborative applicant is the only entity that can apply for a grant from HUD on behalf of the Continuum that the collaborative applicant represents.

**2. Establishing and Operating a Continuum of Care (Subpart B):** In order to be eligible for funds under the Continuum of Care program, representatives from relevant organizations within a geographic area must establish a Continuum of Care. The three major duties of a Continuum of Care are to: (1) Operate the Continuum of Care, (2) designate an HMIS for the Continuum of Care, and (3) plan for the Continuum of Care. HUD has delineated certain operational requirements of each Continuum to help measure a Continuum's overall performance at reducing homelessness, in addition to tracking of performance on a project-by-project basis. In addition, each Continuum is responsible for establishing and operating a centralized or coordinated assessment system that will provide a comprehensive assessment of the needs of individuals and families for housing and services. HUD has also defined the minimum planning requirements for a Continuum so that it coordinates and implements a system that meets the needs of the homeless population within its geographic area. Continuums are also responsible for preparing and overseeing an application for funds. Continuums will have to establish the funding priorities for its geographic area when submitting an application.

**3. Application and Grant Award Process (Subpart C):** The Continuum of Care grant award process begins with a determination of a Continuum's maximum award amount. As directed

by statute, HUD has developed a formula for determining award amounts that includes the following factors: A Continuum's Preliminary Pro Rata Need (PPRN) amount; renewal demand; any additional increases in amounts for leasing, rental assistance, and operating costs based on Fair Market Rents, planning and Unified Funding Agency cost funds, and amounts available for bonus dollars. HUD has established selection criteria for determining which applications will receive funding under the Continuum of Care program. Recipients awarded Continuum of Care funds must satisfy several conditions prior to executing their grant agreements. All grants submitted for renewal must also submit an annual performance report. For those applicants not awarded funding, the process also provides an appeals process.

**4. Program Components and Eligible Costs (Subpart D):** Continuum of Care funds may be used for projects under five program components: Permanent housing, transitional housing, supportive services only, HMIS, and, in some limited cases, homelessness prevention. The rule further clarifies how the following activities are considered eligible costs under the Continuum of Care program: Continuum of Care planning activities, Unified Funding Agency costs, acquisition, rehabilitation, new construction, leasing, rental assistance, supportive services, operating costs, HMIS, project administrative costs, relocation costs, and indirect costs.

**5. High-Performing Communities (Subpart E):** HUD will annually, subject to the availability of appropriate data, select those Continuums of Care that best meet application requirements to be designated a high-performing community (HPC). An HPC may 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. This is the only time that Continuum of Care funds may be used to serve individuals and families at risk of homelessness.

**6. Program Requirements (Subpart F):** All recipients of Continuum of Care funding must comply with the program regulations and the requirements of the Notice of Funding Availability that HUD will issue each year. Notably, the HEARTH Act requires that all eligible funding costs, except leasing, must be matched with no less than 25 percent cash or in-kind match by the Continuum. Other program requirements of recipients include: Abiding by housing quality standards

and suitable dwelling size, assessing supportive services on an ongoing basis, initiating and completing approved activities and projects within certain timelines, and providing a formal process for termination of assistance to participants who violate program requirements or conditions of occupancy.

**7. Grant Administration (Subpart G):** To effectively administer the grants, HUD will provide technical assistance to those who apply for Continuum of Care funds, as well as those who are selected for Continuum of Care funds. After having been selected for funding, grant recipients must satisfy certain recordkeeping requirements so that HUD can assess compliance with the program requirements. For any amendments to grants after the funds have been awarded, HUD has established a separate amendment procedure. As appropriate, HUD has also established sanctions to strengthen its enforcement procedures.

#### *Benefits and Costs*

This interim rule is intended to help respond to and work toward the goal of eliminating homelessness. This interim rule provides greater clarity and guidance about planning and performance review to the more than 430 existing Continuums of Care that span all 50 states and 6 United States territories. As reported in HUD's Annual Homelessness Assessment Report to Congress, there were approximately 1.59 million homeless persons who entered emergency shelters or transitional housing in FY 2010. HUD serves roughly half that many persons, nearly 800,000 annually, through its three programs that will be consolidated into the Continuum of Care program under the McKinney-Vento Act as amended by the HEARTH Act (i.e., Shelter Plus Care, Supportive Housing Program, Single Room Occupancy). The changes initiated by this interim rule will encourage Continuums of Care to establish formal policies and review procedures, including evaluation of the effectiveness of their projects, by emphasizing performance measurement and developing performance targets for homeless populations. HUD is confident that this systematic review by Continuums of Care will lead to better use of limited resources and more efficient service models, with the end result of preventing and ending homelessness.

The Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. 112-55) appropriated \$1,593,000,000 for the Continuum of Care and Rural Housing Stability

Assistance programs. Upon publication of this rule, those FY 2012 funds will be available for distribution, as governed by these Continuum of Care regulations.

### I. Background—HEARTH Act

On May 20, 2009, the President signed into law "An Act to Prevent Mortgage Foreclosures and Enhance Mortgage Credit Availability," which became Public Law 111–22. This law implements a variety of measures directed toward keeping individuals and families from losing their homes. Division B of this law is the HEARTH Act, which consolidates and amends three separate homeless assistance programs carried out under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 *et seq.*) (McKinney-Vento Act) into a single grant program that is designed to improve administrative efficiency and enhance response coordination and effectiveness in addressing the needs of homeless persons. The HEARTH Act codifies in law and enhances the Continuum of Care planning process, the coordinated response to addressing the needs of the homeless, which was established administratively by HUD in 1995. The single Continuum of Care program established by the HEARTH Act consolidates the following programs: The Supportive Housing program, the Shelter Plus Care program, and the Moderate Rehabilitation/Single Room Occupancy program. The Emergency Shelter Grants program is renamed the Emergency Solutions Grants program and is revised to broaden existing emergency shelter and homelessness prevention activities and to add short- and medium-term rental assistance and services to rapidly rehouse homeless people. The HEARTH Act also creates the Rural Housing Stability program to replace the Rural Homelessness Grant program.

HUD commenced the process to implement the HEARTH Act with rulemaking that focused on the definition of "homeless." HUD published a proposed rule, entitled "Defining Homeless" on April 20, 2010 (75 FR 20541), which was followed by a final rule that was published on December 5, 2011 (76 FR 75994). The Defining Homeless rule clarified and elaborated upon the new McKinney-Vento Act definitions for "homeless" and "homeless individual with a disability." In addition, the Defining Homeless rule included recordkeeping requirements related to the "homeless" definition. On December 5, 2011, HUD also published an interim rule for the Emergency Solutions Grants program (76 FR 75954). This interim rule

established the program requirements for the Emergency Solutions Grants program and contained corresponding amendments to the Consolidated Plan regulations. On December 9, 2011, HUD continued the process to implement the HEARTH Act, with the publication of the proposed rule titled "Homeless Management Information Systems Requirements" (76 FR 78917), which provides for uniform technical requirements for Homeless Management Information Systems (HMIS), for proper data collection and maintenance of the database, and ensures the confidentiality of the information in the database. Today's publication of the interim rule for the Continuum of Care program continues HUD's implementation of the HEARTH Act.

This rule establishes the regulatory framework for the Continuum of Care program and the Continuum of Care planning process, including requirements applicable to the establishment of a Continuum of Care. Prior to the amendment of the McKinney-Vento Act by the HEARTH Act, HUD's competitively awarded homeless assistance grant funds were awarded to organizations that participate in local homeless assistance program planning networks referred to as a Continuum of Care, a system administratively established by HUD in 1995. A Continuum of Care is designed to address the critical problem of homelessness through a coordinated community-based process of identifying needs and building a system of housing and services to address those needs. The 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.

The HEARTH Act not only codified in law the planning system known as Continuum of Care, but consolidated the three existing competitive homeless assistance grant programs (Supportive Housing, Shelter Plus Care, and Single Room Occupancy) into the single grant program known as the Continuum of Care program. The consolidation of the three existing homeless assistance programs into the Continuum of Care grant program and the codification in law of the Continuum of Care planning process are intended to increase the efficiency and effectiveness of the coordination of the provision of housing and services to address the needs of the homeless. The regulations established by this rule are directed to carrying out this congressional intent.

### II. Overview of Interim Rule

As amended by the HEARTH Act, Subpart C of the McKinney-Vento Homeless Assistance Act establishes the Continuum of Care program. The purpose of the program is to promote communitywide commitment to the goal of ending homelessness; 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 homeless individuals, families, and communities by homelessness; promote access to and effective utilization of mainstream programs by homeless individuals and families; and optimize self-sufficiency among individuals and families experiencing homelessness.

This interim rule establishes the Continuum of Care as the planning body responsible for meeting the goals of the Continuum of Care program. Additionally, in order to meet the purpose of the HEARTH Act, established in section 1002(b), and the goals of "Opening Doors: Federal Strategic Plan to Prevent and End Homelessness," the Continuum of Care must be involved in the coordination of other funding streams and resources—federal, local, or private—of targeted homeless programs and other mainstream resources. In many communities, the Continuum of Care is the coordinating body, while in other communities it is a local Interagency Council on Homelessness (both would be acceptable forms of coordination under this interim rule). As noted earlier, HUD published on December 9, 2011, a proposed rule to establish HMIS regulations in accordance with the HEARTH Act. However, while the HEARTH Act directed that regulations be established for HMIS, HMIS is not new to many HUD grantees. Until regulations for HMIS are promulgated in final, grantees should continue to follow HUD's existing HMIS instructions and guidance.

The following provides an overview of the proposed rule.

#### *General Provisions (Subpart A)*

*Purpose and scope.* The Continuum of Care program is designed to promote community-wide goals to end homelessness; provide funding to quickly rehouse homeless individuals (including unaccompanied youth) and families while minimizing trauma and dislocation to those persons; promote access to, and effective utilization of, mainstream programs; and optimize self-sufficiency among individuals and

families experiencing homelessness. The program is composed of transitional housing, permanent supportive housing for disabled persons, permanent housing, supportive services, and HMIS.

**Definitions.** The interim rule adopts the definitions of "developmental disability," "homeless," "homeless individual," and "homeless person" established by the December 5, 2011 Defining Homeless final rule. Public comments have already been solicited and additional public comment is not solicited through this rule. The December 5, 2011, final rule was preceded by an April 20, 2010, proposed rule, which sought public comment on these definitions. The final definitions of these terms took into consideration the public comments received on the proposed definitions as set out in the April 20, 2010, proposed rule. This interim rule adopts the definition of "at risk of homelessness" established by the December 5, 2011, the Emergency Solutions Grants program interim rule. The interim rule sought public comment on this definition, and additional public comment is not being sought through this rule.

HUD received valuable public comment on the definition of "chronically homeless," through the public comment process on the Emergency Solutions Grants program interim rule. Based on public comment, this rule for the Continuum of Care program is not adopting the full definition of "chronically homeless" that was included in the conforming amendments to the Consolidated Plan that were published as a part of the Emergency Solutions Grants program rule. Commenters raised concerns with the meaning of the phrase "where each homeless occasion was at least 15 days." The concerns raised about this phrase, used for the first time in a definition of "chronically homeless," has caused HUD to reconsider proceeding to apply a definition that includes this phrase, without further consideration and opportunity for comment. In this rule, HUD therefore amends the definition of "chronically homeless" in the Consolidated Plan regulations to strike this phrase. The removal of this phrase returns the definition to one with which service providers are familiar. The following highlights key definitions used in the Continuum of Care program regulations, and HUD solicits comment on these definitions.

**Applicant** is defined to mean an entity that has been designated by the Continuum of Care as eligible to apply for assistance on behalf of that

Continuum. HUD highlights that the Act does not contain different definitions for "applicant" and "collaborative applicant." HUD distinguishes between the applicant(s) designated to apply for and carry out projects (the "applicant") and the collaborative applicant designated to apply for a grant on behalf of the Continuum of Care (the "collaborative applicant"). Please see below for more information on the definition of a collaborative applicant, which is the only entity that may apply for and receive Continuum of Care planning funds.

**Centralized or coordinated assessment system** is defined to mean 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. This definition establishes basic minimum requirements for the Continuum's centralized or coordinated assessment system.

**Collaborative applicant** is defined to mean an eligible applicant that has been designated by the Continuum of Care to apply for a grant for Continuum of Care planning funds on behalf of the Continuum. As discussed above, the "applicant" is the entity(ies) designated to apply for and carry out projects on behalf of the Continuum. In contrast to the definition of "applicant" above, the collaborative applicant applies for a grant to carry out the planning activities on behalf of the Continuum of Care. The interim rule simplifies the statutory language in order to make the Continuum of Care planning process clear.

HUD highlights that its definition of collaborative applicant does not track the statutory definition, which is found in section 401 of the McKinney-Vento Act. As will be discussed in further detail later in this preamble, the concept of collaborative applicant, its duties and functions, as provided in the statute, is provided for in this rule. However, HUD uses the term Continuum of Care to refer to the organizations that carry out the duties and responsibilities assigned to the collaborative applicant, with the exception of applying to HUD for grant funds. The clarification is necessary in this rule because Continuums of Care are not required to be legal entities, but HUD can enter into contractual agreements with legal entities only.

**Continuum of Care and Continuum** are defined to mean the group that is

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. These organizations consist of the relevant parties in the geographic area. Continuums are expected to include representation to the extent that the type of organization exists within the geographic area that the Continuum represents and is available to participate in the Continuum. For example, if a Continuum of Care did not have a university within its geographic boundaries, then HUD would not expect the Continuum to have representation from a university within the Continuum.

These organizations carry out the responsibilities and duties established under Subpart B of this interim rule. The Continuum of Care, as noted above, carries out the statutory duties and responsibilities of a collaborative applicant. HUD established the Continuum of Care in 1995. Local grantees and stakeholders are familiar with the Continuum of Care as the coordinating body for homeless services and homelessness prevention activities across the geographic area. Consequently, HUD is maintaining the Continuum of Care terminology, and the rule provides for the duties and responsibilities of a collaborative applicant to be carried out under the name Continuum of Care.

**High-performing community** is defined to mean the geographic area under the jurisdiction of a Continuum of Care that has been designated as a high-performing community by HUD. Section 424 of the McKinney-Vento Act provides that HUD shall designate, on an annual basis, which collaborative applicants represent high-performing communities. Consistent with HUD's substitution of the term "Continuum of Care" for "collaborative applicant," the definition of "high-performing community" in this interim rule provides for designation of Continuums of Care that represent geographic areas designated as high-performing communities. The standards for becoming a high-performing community can be found in § 578.65 of this interim



rule and will be discussed later in this preamble.

*Private nonprofit organization* is based on the statutory definition for "private nonprofit organization." The term "private nonprofit organization" is defined in section 424 of the McKinney-Vento Act as follows: "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." In HUD's regulatory definition of "private nonprofit organization," HUD clarifies that the organization's accounting system must be functioning and operated in accordance with generally accepted accounting principles. HUD has included this language to make certain that accounting systems are workable and abide by definite, accurate standards. As reflected in the statutory definition of "private nonprofit organization," HUD may establish requirements for the designation of a fiscal agent. HUD has determined that the fiscal agent, such as a Unified Funding Agency, a term that is also defined in section 424 of the McKinney-Vento Act, must maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles.

*Permanent housing* is consistent with the statutory definition of "permanent housing" in section 401 of the McKinney-Vento Act, but does not track the statutory language. HUD's regulatory definition of "permanent housing" states: "The term 'permanent housing' means community-based housing without a designated length of stay, and includes both permanent supportive housing and rapid re-housing." Additionally, in the regulatory definition of "permanent housing," HUD clarifies that to be permanent housing, "the program participant must be the tenant on a lease for a term of at least one year that is renewable and is terminable only for cause. The lease must be renewable for terms that are a minimum of one month long. HUD has determined that requiring a lease for a term of at least one year that is renewable and terminable only for cause, assists program participants in obtaining stability in housing, even when the rental assistance is temporary. These requirements are consistent with Section 8 requirements.

*Specific request for comment.* HUD specifically requests comment on requiring a lease for a term of at least one year to be considered permanent housing.

*Project* is consistent with the statutory definition of "project" in section 401 of the McKinney-Vento Act, but does not track the statutory language. Section 401 defines "project" as, 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. In HUD's definition of "project" in this interim rule, the eligible activities described in section 423(a) of the McKinney-Vento Act have been identified. In the regulatory text, HUD has clarified that it is a group of one or more of these eligible costs that are identified as a project in an application to HUD for Continuum of Care funds.

*Recipient* is defined to mean an applicant that signs a grant agreement with HUD. HUD's definition of "recipient" is consistent with the statutory definition of "recipient," but does not track the statutory language. Section 424 of the McKinney-Vento Act defines "recipient" as "an eligible entity who—(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." All of the activities specified by the statutory definition are in the rule: (A) and (B) are contained in the definition and (C) is covered in the sections of the rule dealing with what a recipient can do with grant funds.

*Safe haven* is based on the definition of safe haven in the McKinney-Vento Act prior to amendment by the HEARTH Act. Although no longer used in statute, HUD's position is that the term remains relevant for implementation of the Continuum of Care program and, therefore, HUD proposes to include the term in the Continuum of Care program regulations. The term "safe haven" is used for purposes of determining whether a person is chronically homeless. The housing must serve 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. In addition, the housing must provide 24-hour residence for eligible persons for an unspecified period, have an overnight capacity limited to 25 or

fewer persons, and provide low-demand services and referrals for the residents.

*Subrecipient* is defined to mean a private nonprofit organization, State or local government, or instrumentality of a State or local government that receives a subgrant from the recipient to operate a project. The definition of "subrecipient" is consistent with the definition of "project sponsor" found in section 401 of the McKinney-Vento Act, but does not track the statutory language. To be consistent with the Emergency Solutions Grants program regulation, and also to ensure that the relationship between the recipient and subrecipient is clear, HUD is using the term subrecipient, instead of project sponsor, throughout this regulation.

*Transitional housing* is based on the definition of "transitional housing" in section 401 of the McKinney-Vento Act, as follows: "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." The definition has been expanded to distinguish this type of housing from emergency shelter. This distinction is necessitated by the McKinney-Vento Act's explicit distinction between what activities can or cannot be funded under the Continuum of Care program. The regulatory definition clarifies that, to be transitional housing, program participants must have signed a lease or occupancy agreement that is for a term of at least one month and 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 delegated to a UFA in this rule, which is approved by HUD and to which HUD awards a grant. HUD's regulatory definition of UFA departs slightly from the statutory definition. The statutory definition refers to the collaborative applicant. The differences between the statutory definition and HUD's regulatory definition reflect HUD's substitution of Continuum of Care for collaborative applicant.

#### *Establishing and Operating the Continuum of Care (Subpart B)*

*In general.* The statutory authority for the Continuum of Care program is section 422 of the McKinney-Vento Act. As stated under section 1002 of the HEARTH Act, one of the main purposes of the HEARTH Act is to codify the Continuum of Care planning process. Consequently, under this interim rule,

HUD focuses on the rules and responsibilities of those involved in the Continuum of Care planning process and describes how applications and grant funds will be processed.

As discussed earlier in the preamble, HUD's interim rule provides for the duties and functions of the collaborative applicant found in section 401 of the McKinney-Vento Act to be designated to the Continuum of Care, with the exception of applying to HUD for grant funds. HUD chose this approach because the Continuum might not be a legal entity, and therefore cannot enter into enforceable contractual agreements, but is the appropriate body for establishing and implementing decisions that affect the entire geographic area covered by the Continuum, including decisions related to funding. This approach allows the Continuum to retain its duties related to planning and prioritizing need (otherwise designated by statute to the collaborative applicant), while the authority to sign a grant agreement with HUD is designated to an eligible applicant that can enter into a contractual agreement. All of the duties assigned to the Continuum are based on the comparable duties of section 402(f) of the McKinney-Vento Act.

Subpart B of the interim rule identifies how Continuums of Care are established, as well as the required duties and functions of the Continuum of Care.

*Establishing the Continuum of Care.* In order to be eligible for funds under the Continuum of Care program, representatives from relevant organizations within a geographic area must establish a Continuum of Care. As discussed earlier in this preamble, this body is responsible for carrying out the duties identified in this interim regulation. Representatives from 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. Where these organizations are located within the geographic area served by the Continuum of Care, HUD expects a representative of the organization to be a part of the Continuum of Care.

*Specific request for comment.* HUD specifically requests comments on requiring Continuums of Care to have a board that makes the decisions for the

Continuum. HUD requires two characteristics for all board compositions. These characteristics are that the Board must be representative of the subpopulations of homeless persons that exist within the geographic area, and include a homeless or formerly homeless person. Continuums will have 2 years from the effective date of the interim rule to establish a board that meets the criteria established in this section. No board member may participate or influence discussions or decisions concerning the award of a grant or other financial benefits for an organization that the member represents.

HUD is considering four additional characteristics for all board compositions for incorporation in the final rule. HUD did not implement them at this stage in order to seek public comment prior to implementing them as requirements. HUD proposes that all boards must have a chair or co-chairs; be composed of an uneven number, serving staggered terms; include members from the public and private sectors; and include a member from at least one Emergency Solutions Grants program (ESG) recipient's agency located within the Continuum's geographic area. HUD is requesting comment on all of these proposed requirements; however, HUD specifically requests comments from Continuums of Care and ESG recipients on the requirement that the Board include an ESG recipient as part of its membership. HUD invites ESG recipients and Continuums to share challenges that will be encountered when implementing this requirement. Ensuring that ESG recipients are represented on the Board is important to HUD; therefore, in communities where ESG recipients and/or Continuums do not feel this requirement is feasible, HUD asks commenters to provide suggestions for how ESG recipients can be involved in the Continuum at one of the core decision-making levels.

*Responsibilities of the Continuum of Care.* The interim rule establishes three major duties for which the Continuum of Care is responsible: To operate the Continuum of Care, to designate an HMIS for the Continuum of Care, and to plan for the Continuum of Care.

This section of the interim rule establishes requirements within these three major duties.

*Operating the Continuum of Care.* The interim rule provides that the Continuum of Care must abide by certain operational requirements. These requirements will ensure the effective management of the Continuum of Care process and ensure that the process is

inclusive and fair. HUD has established eight duties required of the Continuum necessary to effectively operate the Continuum of Care. HUD has established the specific minimum standards for operating and managing a Continuum of Care for two main reasons. First, the selection criteria established under section 427 of the McKinney-Vento Act require HUD to measure the Continuum of Care's performance in reducing homelessness by looking at the overall performance of the Continuum, as opposed to measuring performance project-by-project as was done prior to the enactment of the HEARTH Act. This Continuum of Care performance approach results in cooperation and coordination among providers. Second, because Continuums of Care will have grants of up to 3 percent of Final Pro Rata Need (FPRN) to be used for eligible Continuum of Care planning costs, HUD is requiring more formal decision-making and operating standards for the Continuum of Care. This requirement ensures that the Continuums have appropriate funding to support planning costs.

One of the duties established in this interim rule is the requirement that the Continuum establish and operate a centralized or coordinated assessment system that provides an initial, comprehensive assessment of the needs of individuals and families for housing and services. As detailed in the Emergency Solutions Grants program interim rule published on December 5, 2011, through the administration of the Rapid Re-Housing for Families Demonstration program and the Homelessness Prevention and Rapid Re-Housing program, as well as best practices identified in communities, HUD has learned that centralized or coordinated assessment systems are important in ensuring the success of homeless assistance and homeless prevention programs in communities. In particular, such assessment systems help communities systematically assess the needs of program participants and effectively match each individual or family with the most appropriate resources available to address that individual or family's particular needs.

Therefore, HUD has required, through this interim rule, each Continuum of Care to develop and implement a centralized or coordinated assessment system for its geographic area. Such a system must be designed locally in response to local needs and conditions. For example, rural areas will have significantly different systems than urban ones. While the common thread between typical models is the use of a

common assessment tool, the form, detail, and use of that tool will vary from one community to the next. Some examples of centralized or coordinated assessment systems include: A central location or locations within a geographic area where individuals and families must be present to receive homeless services; a 211 or other hotline system that screens and directly connects callers to appropriate homeless housing/service providers in the area; a "no wrong door" approach in which a homeless family or individual can show up at any homeless service provider in the geographic area but is assessed using the same tool and methodology so that referrals are consistently completed across the Continuum of Care; a specialized team of case workers that provides assessment services to providers within the Continuum of Care; or in larger geographic areas, a regional approach in which "hubs" are created within smaller geographic areas. HUD intends to develop technical assistance materials on a range of centralized and coordinated assessment types, including those most appropriate for rural areas.

HUD recognizes that imposing a requirement for a centralized or coordinated assessment system may have certain costs and risks. Among the risks that HUD wishes specifically to address are the risks facing individuals and families fleeing domestic violence, dating violence, sexual assault, and stalking. In developing the baseline requirements for a centralized or coordinated intake system, HUD is considering whether victim service providers should be exempt from participating in a local centralized or coordinated assessment process, or whether victim service providers should have the option to participate or not.

*Specific request for comment.* HUD specifically seeks comment from Continuum of Care-funded victim service providers on this question. As set forth in this interim rule, each Continuum of Care is to develop a specific policy on how its particular 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. These policies could include reserving private areas at an assessment location for evaluations of individuals or families who are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, or stalking; a separate "track" within the assessment framework that is specifically designed for domestic

violence victims; or the location of victim service providers with centralized assessment teams.

HUD invites suggestions for ensuring that the requirements it imposes regarding centralized or coordinated assessment systems will best help communities use their resources effectively and best meet the needs of all families and individuals who need assistance. Questions that HUD asks commenters to specifically address are: What barriers to accessing housing/services might a centralized or coordinated intake system pose to victims of domestic violence? How can those barriers be eliminated? What specific measures should be implemented to ensure safety and confidentiality for individuals and families who are fleeing or attempting to flee domestic violence situations? How should those additional standards be implemented to ensure that victims of domestic violence have immediate access to housing and services without increasing the burden on those victims? For communities that already have centralized or coordinated assessment systems in place, are victims of domestic violence and/or domestic violence service providers integrated into that system? Under either scenario (they are integrated into an assessment process or they are not integrated into it), how does your community ensure the safety and confidentiality of this population, as well as access to homeless housing and services? What HUD-sponsored training would be helpful to assist communities in completing the initial assessment of victims of domestic violence in a safe and confidential manner?

In addition to comments addressing the needs of victims of domestic violence, dating violence, sexual assault, and stalking, HUD invites general comments on the use of a centralized or coordinated assessment system, particularly from those in communities that have already implemented one of these systems who can share both what has worked well and how these systems could be improved. HUD specifically seeks comment on any additional risks that a centralized or coordinated assessment system may create for victims of domestic violence, dating violence, sexual assault, or stalking who are seeking emergency shelter services due to immediate danger, regardless of whether they are seeking services through a victim service provider or nonvictim service provider.

Another duty set forth in this part, is the requirement to establish and consistently follow written standards

when administering assistance under this part. These requirements, established in consultation with recipients of Emergency Solutions Grants program funds within the geographic area, are intended to coordinate service delivery across the geographic area and assist Continuums of Care and their recipients in evaluating the eligibility of individuals and families consistently and administering assistance fairly and methodically. The written standards can be found in § 578.7(a)(9) of this interim rule.

*Designating and operating an HMIS.* The Continuum of Care is responsible for designating an HMIS and an eligible applicant to manage the HMIS, consistent with the requirements, which will be codified in 24 CFR part 580. This duty is listed under section 402(f)(2) of the McKinney-Vento Act. In addition, the Continuum is responsible for reviewing, revising, and approving a privacy plan, security plan, and data quality plan for the HMIS and ensuring consistent participation of recipients and subrecipients in the HMIS.

*Continuum of Care planning.* The Continuum is responsible for coordinating and implementing a system for its geographic area to meet the needs of the homeless population and subpopulations within the geographic area. The interim rule defines the minimum requirements for this systematic approach under § 578.7(c)(1), such as emergency shelters, rapid rehousing, transitional housing, permanent supportive housing, and prevention strategies. Because there are not sufficient resources available through the Continuum of Care program to prevent and end homelessness, coordination and integration of other funding streams, including the Emergency Solutions Grants program and mainstream resources, is integral to carrying out the Continuum of Care System.

HUD has determined that since the Continuum of Care will be the larger planning organization, the Continuum of Care must develop and follow a Continuum of Care plan that adheres, not only to the requirements being established by this interim rule, but to the requirements and directions of the most recently issued notice of funding availability (NOFA).

While these planning duties are not explicitly provided in section 402(f) of the Act, HUD has included them to facilitate and clarify the Continuum of Care planning process. Consistent with the goals of the HEARTH Act, HUD strives, through this interim rule, to provide a comprehensive, well-



coordinated and clear planning process, which involves the creation of the Continuum of Care and the duties the Continuum of Care will have to fulfill.

Other planning duties for Continuums established in this section of the interim rule are planning for and conducting at least a biennial-point-in-time count of homeless persons within the geographic area, conducting an annual gaps analysis of the homeless needs and services available within the geographic area, providing information necessary to complete the Consolidated Plan(s) within the geographic area, and consulting with State and local government Emergency Solutions Grants program recipients within the Continuum of Care 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.

*Preparing an application for funds.* A major function of the Continuum of Care is preparing and overseeing an application for funds under this part. This section of the interim rule establishes the duties of the Continuum of Care related to the preparation of the application. This section of the interim rule establishes that the Continuum is responsible for designing, operating, and following a collaborative process for the development of applications, as well as approving the submission of applications, in response to a NOFA published by HUD.

The Continuum must also establish priorities for funding projects within the geographic area and determine the number of applications being submitted for funding. As previously noted in this preamble, since the Continuum of Care might not be a legal entity, and therefore may not be able to enter into a contractual agreement with HUD, the Continuum must select one or more eligible applicants to submit an application for funding to HUD on its behalf. If the Continuum of Care is an eligible applicant, the Continuum of Care may submit an application. If the Continuum selects more than one application, the Continuum must select one eligible applicant to be the collaborative applicant. That applicant will collect and combine the required application information from all of the other eligible applicants and for all projects within the geographic area that the Continuum has designated. If only one application is submitted by the collaborative applicant, the collaborative applicant will collect and combine the required application information from all projects within the geographic area that the Continuum has

designated for funding. The collaborative applicant will always be the only applicant that can apply for Continuum of Care planning costs. In the case that there is one application for projects, the recipient of the funds is required to have signed agreements with its subrecipients as set forth in § 578.23(c), and is required to monitor and sanction subrecipients in compliance with § 578.107.

Whether the Continuum of Care submits the application or designates an eligible applicant to submit the application for funding, the Continuum of Care retains all of its duties.

*Unified Funding Agencies.* To be designated as the Unified Funding Agency (UFA) for the Continuum of Care, the Continuum must select the collaborative applicant to apply to HUD to be designated as the UFA for the Continuum. The interim rule establishes the criteria HUD will use when determining whether to designate the collaborative applicant as a UFA. These standards were developed to ensure that collaborative applicants have the capacity to manage the grant and carry out the duties in 578.11(b), and are described below.

The duties of the UFA established in § 578.11 are consistent with the duties set forth in section 402(g) of the Act. Even if the Continuum designates a UFA to submit the application for funding, the Continuum of Care retains all of its duties.

*Remedial actions.* Section 402(c) of the McKinney-Vento Act gives HUD the authority to ensure the fair distribution of grant amounts for this program, such as designating another body as a collaborative applicant, replacing the Continuum of Care for the geographic area, or permitting other eligible entities to apply directly for grants. Section 578.13 of this interim rule addresses the remedial actions that may be taken.

#### *Overview of the Application and Grant Award Process (Subpart C)*

*Eligible applicants.* Under this interim rule, eligible applicants consist of nonprofit organizations, State and local governments, and instrumentalities of local governments. An eligible applicant must have been designated by the Continuum of Care to submit an application for grant funds under this part. The Continuum's 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 the collaborative applicant. A Continuum of Care that is designating only one applicant for funds must designate that applicant to be the collaborative

applicant. For-profit entities are not eligible to apply for grants or to be subrecipients of grant funds.

Section 401(10) of the McKinney-Vento Act identifies that collaborative applicants may be legal entities, and a legal entity may include a consortium of instrumentalities of a State or local government that has constituted itself as an entity. HUD has not included a consortium in the list of eligible applicants. As noted earlier in this preamble, a Continuum of Care is defined to mean a group that is composed of representatives of organizations across the entire geographic area claimed by the Continuum of Care. A Continuum is able to combine more than one metropolitan city or county into the geographic area that the Continuum represents. In essence, the Continuum of Care acts as a consortium, and it is therefore HUD's position that the inclusion of consortiums in the interim rule would be redundant.

*Determining the Continuum's maximum award amount.* The total amount for which a Continuum of Care is eligible to apply and be awarded is determined through a four-step process, including the following factors: A Continuum's PPRN amount; renewal demand; any additional increases in amounts for leasing, rental assistance, and operating costs based on Fair Market Rents (FMRs); planning and UFA cost funds; and the amounts available for bonus dollars.

Using the formula that will be discussed below, HUD will first determine a Continuum of Care's PPRN amount, as authorized under section 427(b)(2)(B) of the McKinney-Vento Act. This amount is the sum of the PPRN amounts for each metropolitan city, urban county, non-urban county, and insular area claimed by the Continuum of Care as part of its geographic area, excluding any counties applying for, or receiving funds under the Rural Housing Stability Assistance program, the regulations for which will be established in 24 CFR part 579. The PPRN for each of these areas is based upon the "need formula" under § 579.17(a)(2) and (3). Under the McKinney-Vento Act, HUD is required to publish, by regulation, the formula used to establish grant amounts. The need formula under § 579.17(a)(2) and (3) satisfies this requirement, and HUD specifically seeks comment on this formula. HUD will announce the PPRN amounts prior to the publication of the NOFA on its Web site.

To establish the amount on which the need formula is run, HUD will deduct an amount, which will be published in

the NOFA, to be set aside to provide a bonus, and the amount necessary to fund Continuum of Care planning activities and UFA costs from the total funds made available for the program each fiscal year. On this amount, HUD will use the following process to establish an area's PPRN. First, 2 percent of the total funds available shall be allocated among the four insular areas (American Samoa, Guam, the Commonwealth of the Northern Marianas, and the Virgin Islands) based upon the percentage each area received in the previous fiscal year under section 106 of the Housing and Community Development Act of 1974. Second, 75 percent of the remaining funds made available shall be allocated to metropolitan cities and urban counties that have been funded under the Emergency Solutions Grants program (formerly known as the Emergency Shelter Grants program) every year since 2004. Third, the remaining funds made available shall be allocated to Community Development Block Grant (CDBG) metropolitan cities and urban counties that have not been funded under the Emergency Solutions Grants program every year since 2004 and all other counties in the United States and Puerto Rico.

Recognizing that in some federal fiscal years, the amount available for the formula may be less than the amount required to renew all existing projects eligible for renewal in that year for at least one year, HUD has included a method for distributing the reduction of funds proportionally across all Continuums of Care in § 578.17(a)(4) of this interim rule. HUD will publish the total dollar amount that each Continuum will be required to deduct from renewal projects Continuum-wide, and Continuums will have the authority to determine how to administer the cuts to projects across the Continuum.

*Specific request for comment.* HUD specifically requests comment on the method established in § 578.17(a)(4) to reduce the total amount required to renew all projects eligible for renewal in that one year, for at least one year, for each Continuum of Care when funding is not sufficient to renew all projects nationwide for at least one year.

The second step in determining a Continuum's maximum award amount is establishing a Continuum of Care's "renewal demand." The Continuum's renewal demand is the sum of the annual renewal amounts of all projects eligible within the Continuum of Care's geographic area to apply for renewal in that federal fiscal year's competition before any adjustments to rental assistance, leasing, and operating line

items based on changes to the FMRs in the geographic area.

Third, HUD will determine the Continuum of Care's Final Pro Rata Need (FPRN), which is the higher of: (1) PPRN, or (2) renewal demand for the Continuum of Care. The FPRN establishes the base for the maximum award amount for the Continuum of Care.

Fourth, HUD will determine the maximum award amount. The maximum award amount for the Continuum of Care is the FPRN amount plus any additional eligible amounts for Continuum planning; establishing fiscal controls for the Continuum; updates to leasing, operating, and rental assistance line items based on changes to FMR; and the availability of any bonus funding during the competition.

*Application process.* Each fiscal year, HUD will issue a NOFA. All applications, including applications for grant funds, and requests for designation as a UFA or HPC, must be submitted to HUD in accordance with the requirements of the NOFA and contain such information as the NOFA specifies. Applications may request up to the maximum award amount for Continuums of Care.

An applicant that is a State or a unit of general local government must have a HUD-approved, consolidated plan in accordance with HUD's Consolidated Plan regulations in 24 CFR part 91. The applicant must submit a certification that the application for funding is consistent with the HUD-approved consolidated plan(s) in the project's jurisdiction(s). Applicants that are not States or units of general local government must submit a certification that the 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 HUD's regulations in 24 CFR part 91, subpart F. The required certification must be submitted by the funding application submission deadline announced in the NOFA.

An applicant 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). In this interim rule, HUD clarifies that the applicant must submit information in its application on other sources of funding the applicant has received, or reasonably expects to receive, for a proposed project or activities.

*Awarding funds.* HUD will review applications in accordance with the guidelines and procedures specified in

the NOFA and award funds to recipients through a national competition based on selection criteria as defined in section 427 of the McKinney-Vento Act. HUD will announce the awards and notify selected applicants of any conditions imposed on the awards.

*Grant agreements.* A recipient of a conditionally awarded grant must satisfy all requirements for obligation of funds; otherwise, HUD will withdraw its offer of the award. These conditions include establishing site control, providing proof of match, complying with environmental review under § 578.31, and documenting financial feasibility within the deadlines under § 578.21(a)(3). HUD has included in the interim rule the deadlines for conditions that may be extended and the reasons for which HUD will consider an extension.

The interim rule requires that site control be established by each recipient receiving funds for acquisition, rehabilitation funding, new construction, or operating costs, or for providing supportive services. HUD has determined that the time to establish site control is 12 months for projects not receiving new construction, acquisition, or rehabilitation funding, as stated under section 426(a) of the McKinney-Vento Act, not 9 months as stated under section 422(d) of the McKinney-Vento Act, for projects receiving operating and supportive service funds. HUD's determination on the time needed to establish site control is based on previous program policy, and the longer time frame takes into consideration the reality of the housing market. Projects receiving acquisition, rehabilitation, or new construction funding must provide evidence of site control no later than 24 months after the announcement of grant awards, as provided under section 422(d) of the McKinney-Vento Act.

The interim rule requires that HUD perform an environmental review for each property as required under HUD's environmental regulations in 24 CFR part 50. All recipients of Continuum of Care program funding under this part must supply all available, relevant information necessary to HUD, and carry out mitigating measures required by HUD. The recipient, its project partners, and its project partner's contractors may not perform any eligible activity for a project under this part, or commit or expend HUD or local funds for such activities until HUD has performed an environmental review and the recipient has received HUD approval of the property agreements.

*Executing grant agreements.* If a Continuum designates more than one applicant for the geographic area, HUD

will enter into a grant agreement with each designated recipient for which an award is announced. If a Continuum designates only one recipient for the geographic area, HUD may enter into one grant agreement with that recipient for new awards, if any; and one grant agreement for renewals and Continuum of Care planning costs and UFA costs, if any. These two grant agreements will cover the entire geographic area, and a default by the recipient under one of these agreements will also constitute a default under the other. If the Continuum is a UFA, HUD will enter into one grant agreement with the UFA for new awards, if any; and one for renewal and Continuum of Care planning costs and UFA costs, if any. Similarly, these two grant agreements will cover the entire geographic area and a default by the recipient under one of those agreements will also constitute a default under the other.

HUD requires the recipient to enter into the agreement described in § 578.23(c). Under this agreement, the grant recipient must agree to ensure that the operation of the project will be in accordance with the McKinney-Veto Act and the requirements under this part. In addition, the recipient must monitor and report the progress of the projects to the Continuum of Care and to HUD. The recipient must ensure that individuals and families experiencing homelessness are involved in the operation of the project, maintain confidentiality of program participants, and monitor and report matching funds to HUD, among other requirements. The recipient must also agree to use the centralized or coordinated assessment system established by the Continuum of Care, unless the recipient or subrecipient is a victim service provider. Victim service providers may choose not to use the centralized or coordinated assessment system provided that all victim service providers in the area use a centralized or coordinated assessment system that meets HUD's minimum requirements. HUD has provided this optional exception because it understands the unique role that victim service providers have within the Continuum of Care.

**Renewals.** The interim rule provides that HUD may fund, through the Continuum of Care program, all projects that were previously eligible under the McKinney-Vento Act prior to the enactment of the HEARTH Act. These projects may be renewed to continue ongoing leasing, operations, supportive services, rental assistance, HMIS, and administration beyond the initial funding period even if those projects

would not be eligible under the Continuum of Care program. For projects that would no longer be eligible under the Continuum of Care program (e.g., safe havens), but which are serving homeless persons; HUD wants to ensure that housing is maintained and that persons do not become homeless because funding is withdrawn.

HUD may renew projects that were submitted on time and in such manner as required by HUD, but did not have a total score that would allow the project to be competitively funded. HUD may choose to exercise this option to ensure that homeless or formerly homeless persons do not lose their housing. The interim rule provides, based on the language in section 421(e) of the McKinney-Vento Act, that HUD may renew the project, upon a finding that the project meets the purposes of the Continuum of Care program, for up to one year and under such conditions as HUD deems appropriate.

**Annual Performance Report.** The interim rule also provides that HUD may terminate the renewal of any grant and require the recipient to repay the renewal grant if the recipient fails to submit a HUD Annual Performance Report (APR) within 90 days of the end of the program year or if the recipient submits an APR that HUD deems unacceptable or shows noncompliance with the requirements of the grant and this part. Section 578.103(e) of the Continuum of Care program regulations further clarifies that recipients receiving grant funds for acquisition, rehabilitation, or new construction are expected to submit APRs for 15 years from the date of initial occupancy or the date of initial service provision, unless HUD provides an exception. The recipient's submission of the APR helps HUD review whether the recipient is carrying out the project in the manner proposed in the application. Recipients agree to submit an APR as a condition of their grant agreement. This requirement allows HUD to ensure that recipients submit APRs on grant agreements that have expired as a condition of receiving approval for a new grant agreement for the renewal project.

**Appeals.** The interim rule provides certain appeal options for applicants that were not awarded funding.

Under section 422(g) of the McKinney-Vento Act, if more than one collaborative applicant submits an application covering the same geographic area, HUD must award funds to the application that scores the highest score based on the selection criteria set forth in section 427 of the Act. Consistent with HUD's use of the term

Continuum of Care in the interim rule where the statute uses collaborative applicant, as explained earlier in the preamble, the interim rule stipulates that if more than one Continuum of Care claims the same geographic area, then HUD will award funds to the Continuum applicant(s) whose application(s) has the highest total score and that no projects from the lower scoring Continuum of Care will be funded (and that any projects submitted with both applications will not be funded). To appeal HUD's decision to fund the competing Continuum of Care, the applicant(s) from the lower-scoring Continuum of Care must file the written appeal in such form and manner as HUD may require within 45 days of the date of HUD's announcement of award.

If an applicant has had a certification of consistency with a consolidated plan withheld, that applicant may appeal such a decision to HUD. HUD has established a procedure to process the appeals and no later than 45 days after the date of receipt of an appeal, HUD will make a decision.

Section 422(h) of the McKinney-Vento Act provides the authority for a solo applicant to submit an application to HUD and be awarded a grant by HUD if it meets the criteria under section 427 of the McKinney-Vento Act. The interim rule clarifies that a solo applicant must submit its application to HUD by the deadline established in the NOFA to be considered for funding. The statute also requires that HUD establish an appeal process for organizations that attempted to participate in the Continuum of Care's process and believe they were denied the right to reasonable participation, as reviewed in the context of the local Continuum's process. An organization may submit a solo application to HUD and appeal the Continuum's decision not to include it in the Continuum's application. If HUD finds that the solo applicant was not permitted to participate in the Continuum of Care process in a reasonable manner, then HUD may award the grant to that solo applicant and may direct the Continuum to take remedial steps to ensure reasonable participation in the future. HUD may also reduce the award to the Continuum's applicant(s).

Section 422(h)(1) of the McKinney-Vento Act requires that "HUD establish a timely appeal procedure for grant amounts awarded or denied under this subtitle to a collaborative application." The interim rule sets an appeal process for denied or decreased funding under § 578.35(c). Applicants that are denied funds by HUD, or that requested more funds than HUD awarded, may appeal



by filing a written appeal within 45 days of the date of HUD's announcement of the award. HUD will notify applicant of its decision on the appeal within 60 days of the date of HUD's receipt of the written appeal.

*Program Components and Eligible Costs (Subpart D)*

*Program components.* The interim rule provides that Continuum of Care funds may be used for projects under five program components: Permanent housing, transitional housing, supportive services only, HMIS, and, in some cases, homelessness prevention. Administrative costs are eligible under all components. Where possible, the components set forth in the Continuum of Care program are consistent with the components set forth under the Emergency Solutions Grants program. This will ease the administrative burden on recipients of both programs and will ensure that reporting requirements and data quality benchmarks are consistently established and applied to like projects. One significant distinction between the Emergency Solutions Grants program and this part can be found in the eligible activities and administration requirements for assistance provided under the rapid rehousing component in this interim rule. The significant differences between this component in the Emergency Solutions Grants program and this part are discussed below.

The interim rule sets forth the costs eligible for each program component in § 578.37(a). The eligible costs for contributing data to the HMIS designated by the Continuum of Care are also eligible under all components.

Consistent with the definition of permanent housing in section 401 of the McKinney-Vento Act and § 578.3 of this interim rule, the permanent housing component is community-based housing without a designated length of stay that permits formerly homeless individuals and families to live as independently as possible. The interim rule clarifies that Continuum of Care funds may be spent on two types of permanent housing: Permanent supportive housing for persons with disabilities (PSH) and rapid rehousing that provides temporary assistance (i.e., rental assistance and/or supportive services) to program participants in a unit that the program participant retains after the assistance ends.

Although the McKinney-Vento Act authorizes permanent housing without supportive services, the interim rule does not. Based on its experience with the Supportive Housing and Shelter Plus Care programs, HUD has

determined that programs should require at least case management for some initial period after exiting homelessness. HUD has imposed the requirement that rapid rehousing include, at a minimum, monthly case management meetings with program participants (except where prohibited by the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA)) and allows for a full range of supportive services to be provided for up to 6 months after the rental assistance stops. Many other HUD programs, such as Section 8 and HOME, provide housing without supportive services to low-income individuals and families.

With respect to rapid rehousing, the interim rule provides that funds under this part may be used to provide supportive services and short-term and/or medium-term rental assistance. While the time frames under which a program participant may receive short-term or medium-term rental assistance set forth in this part match the time frames set forth in the Emergency Solutions Grants program, the supportive services available to program participants receiving rapid rehousing assistance under the Continuum of Care program are not limited to housing relocation and stabilization services as they are in the Emergency Solutions Grants program. Program participants receiving rapid rehousing under this part may receive any of the supportive services set forth in § 578.53 during their participation in the program. The Continuum of Care, however, does have the discretion to develop written policies and procedures that limit the services available to program participants that better align the services available to program participants with those set forth in the Emergency Solutions Grants program.

*Specific request for comment.* While HUD's experience with the Supportive Housing and Shelter Plus Care programs is the basis for HUD's determination to require case management for some initial period after exiting homelessness, HUD specifically welcomes comment on other experiences with monthly case management.

The interim rule provides that the HMIS component is for funds that are used by HMIS Leads only. Eligible costs include leasing a structure in which the HMIS is operated, operating funds to operate a structure in which the HMIS is operated, and HMIS costs related to establishing, operating, and customizing a Continuum of Care's HMIS.

As set forth in Section 424(c) of the McKinney-Vento Act, Continuum of Care funds may be used only for the

homelessness prevention component by recipients in Continuums of Care that have been designated HPCs by HUD. Eligible activities are housing relocation and stabilization services, and short- and/or medium-term rental assistance, as set forth in 24 CFR 578.103, necessary to prevent an individual or family from becoming homeless.

*Planning activities.* Under this interim rule, HUD lists eligible planning costs for the Continuum of Care under § 578.39(b) and (c). HUD will allow no more than 3 percent of the FPRN, or a maximum amount to be established by the NOFA, to be used for certain costs. These costs must be related to designing a collaborative process for an application to HUD, evaluating the outcomes of funded projects under the Continuum of Care and Emergency Solutions Grants programs, and participating in the consolidated plan(s) for the geographic area(s). Under section 423 of the McKinney-Vento Act, a collaborative applicant may use no more than 3 percent of total funds made available to pay for administrative costs related to Continuum of Care planning.

HUD is defining "of the total funds made available" to mean FPRN, the higher of PPRN or renewal demand, in the interim rule. HUD has determined that FPRN strikes the correct balance, as it is the higher of PPRN or renewal demand. This will help Continuums of Care (CoC) balance: (1) Having sufficient planning dollars to be successful in its duties and compete for new money (which would be the PPRN), and (2) being able to monitor and evaluate actual projects in operation (and plan for renewal demand). The administrative funds related to CoC planning made available will be added to a CoC's FPRN to establish the CoC's maximum award amount.

*Unified Funding Agency Costs.* Under this interim rule, HUD lists eligible UFA costs in § 578.41(b) and (c). Similar to the cap on planning costs for CoC, HUD will allow no more than 3 percent of the FPRN, or a maximum amount to be established by the NOFA, whichever is less, to be used for UFA costs. This amount is in addition to the amount made available for CoC planning costs. UFA costs include costs associated with ensuring that all financial transactions carried out under the Continuum of Care program are conducted and records 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. The funds made

available to UFAs related to establishing fiscal controls will be added to a CoC's FPRN to establish the CoC maximum award amount.

**Leasing.** Under this interim rule, grant funds may be used to pay the costs of leasing a structure or structures, or portions of structures, to provide housing or supportive services. The interim rule further clarifies that leasing means that the lease is between the recipient of funds and the landlord. HUD recognizes that some grantees receiving funds through the Supportive Housing Program may have been using their leasing funds in a manner consistent with the rental assistance requirements established in § 578.51; therefore, since the Continuum of Care program authorizes both leasing and rental assistance, the rule provides for an allowance for projects originally approved to carry out leasing to renew and request funds for rental assistance, so long as the rental assistance meets the requirements in § 578.51. The rule provides that a recipient of a grant awarded under the McKinney-Vento Act, prior to enactment of the HEARTH Act, must apply for leasing if the lease is between the recipient and the landlord, notwithstanding that the grant was awarded prior to the HEARTH Act amendments to the McKinney-Vento Act.

The interim rule provides that 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 authorizes an exception for good cause. The interim rule establishes minimum requirements that a request for an exception must include. These exceptions are based on HUD's experience in administering the Homelessness Prevention and Rapid Re-Housing Program (HPRP).

The interim rule establishes that projects for leasing may require that program participants pay an occupancy charge (or in the case of a sublease, rent) of no more than 30 percent of their income. Income must be calculated in accordance with HUD's regulations in 24 CFR 5.609 and 24 CFR 5.611(a). However, the interim rule clarifies that projects may not charge program fees.

**Rental assistance.** Under this interim rule, rental assistance is an eligible cost for permanent and transitional housing, and this rule clarifies that the rental assistance may be short-term, up to 3 months of rent; medium-term, for 3 to 24 months of rent; and long-term, for longer than 24 months of rent. This

section provides that rental assistance may include tenant-based, project-based, or sponsor-based rental assistance. This section also provides that project-based rental assistance may include rental assistance to preserve existing permanent supportive housing for homeless individuals and families. Given that the availability of affordable rental housing has been shown to be a key factor in reducing homelessness, the availability of funding for short-term, medium-term, and long-term rental assistance under both the Emergency Solutions Grants program and the Continuum of Care program is not inefficient use of program funds, but rather effective use of funding for an activity that lowers the number of homeless persons.

As noted in the above discussion of rental housing available for funding under the Continuum of Care program, one eligible form of rental assistance is tenant-based, which allows the program participant to retain rental assistance for another unit. The interim rule limits this retention to within the Continuum of Care boundaries. HUD has determined that Continuum of Care program funds must be used within the Continuum's geographic boundaries. If program participants move outside of the Continuum, the Continuum may pay moving costs, security deposits, and the first month of rent for another unit; however, the Continuum would have to organize assistance with the relevant Continuum of Care for the program participant if rental assistance is to continue. The program participant may be transferred to a rental assistance program in a different Continuum without having to become homeless again. The recipient may also limit the movement of the assistance to a smaller area if this is necessary to coordinate service delivery.

Under this interim rule, the only exception to the limitation for retention of tenant-based rental assistance is for program participants who are victims of domestic violence, dating violence, sexual assault, or stalking. Under the definition of "tenant-based" in the McKinney-Vento Act (section 401(28) of the McKinney-Vento Act), these participants must have complied with all other obligations of the program and reasonably believe that he or she is imminently threatened by harm from further violence if he or she remains in the assisted dwelling unit.

In the interim rule, HUD has clarified that the imminent threat of harm must be 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. HUD requires that the program participant provide appropriate documentation of the original incident of domestic violence, dating violence, sexual assault, or stalking, and any evidence of the current imminent threat of harm. Examples of appropriate documentation of the original incident of domestic violence, dating violence, sexual assault, or stalking include 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; or medical or dental, court, or law enforcement records.

Documentation of reasonable belief of further domestic violence, dating violence, sexual assault, or stalking includes written observation by the housing or service provider; a letter or other written documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom the victim has requested assistance; a current restraining order, recent court order, or other court records; or law enforcement reports or records. The housing or service provider may also consider other documentation such as emails, voicemails, text messages, social media posts, and other communication. Because of the particular safety concerns surrounding victims of domestic violence, the interim rule provides that acceptable evidence for both the original violence and the reasonable belief include an oral statement. This oral statement does not need to be verified, but it must be documented by a written certification by the individual or head of household.

This provision is specific to victims of domestic violence, dating violence, sexual assault, and stalking who are receiving tenant-based rental assistance in permanent housing. This interim rule contains other policies for moving program participants receiving any type of assistance under this interim rule, including tenant-based rental assistance, within the Continuum of Care geographic area, or smaller geographic area required by the provider to coordinate service delivery. Moving program participants outside of the geographic area where providers can coordinate service-delivery is administratively difficult for providers and makes it difficult to monitor that program participants have access to, and are receiving, appropriate supportive

services; therefore, moves outside of the geographic area where the provider can effectively deliver and monitor service coordination are allowed only under exceptional circumstances. HUD has established these provisions to provide an exception and to address the challenges that are associated with such a move.

Based on HUD's experience in administering the Shelter Plus Care program, the interim rule includes provisions to clarify when rental payments may continue to be made to a landlord when the program participant no longer resides in the unit. For vacated units, the interim rule provides that assistance may continue for a maximum of 30 days from the end of the month in which the unit was vacated, unless the unit is occupied by another eligible person. A person staying in an institution for less than 90 days is not considered as having vacated the unit. Finally, the recipient 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 the program participant, one-time, per program participant, per unit. This assistance can be provided only at the time the program participant exits the housing unit.

**Supportive services.** Grant funds may be used to pay eligible costs of supportive services for the special needs of program participants. All eligible costs are eligible to the same extent for program participants who are unaccompanied homeless youth; persons living with Human Immunodeficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) (HIV/AIDS); and victims of domestic violence, dating violence, sexual assault, or stalking. Any cost that is not described as an eligible cost under this interim rule is not an eligible cost of providing supportive services. Eligible costs consist of assistance with moving costs, case management, child care, education services, employment assistance and job training, housing search and counseling services, legal services, life skills training, mental health services, outpatient health services, outreach services, substance abuse treatment services, transportation, and utility deposits.

The definition of "supportive services" in section 401(27) of the McKinney-Vento Act includes the provision of mental health services, trauma counseling, and victim services. HUD has determined that victim services are eligible as supportive services, and are included as eligible program costs in this interim rule. Providers are allowed to provide

services specifically to victims of domestic violence, dating violence, sexual assault, and stalking. The eligible costs for providing victim services are listed as eligible costs in the supportive services funding category. Rather than create a new eligible line item in the project budget, HUD has determined that these costs can be included in the funding categories already established.

**Indirect costs.** Indirect costs are allowed as part of eligible program costs. Programs using indirect cost allocations must be consistent with Office of Management and Budget (OMB) Circulars A-87 and A-122, as applicable. OMB Circular A-87 and the regulations at 2 CFR part 225 pertain to "Cost Principles for State, Local, and Indian Tribal Governments." OMB Circular A-122 and the regulations codified at 24 CFR part 230 pertain to "Cost Principles for Non-Profit Organizations."

**Other costs.** In addition to the eligible costs described in this preamble, the regulation addresses the following other eligible costs: acquisition, rehabilitation, new construction, operating costs, HMIS, project administrative costs, and relocation costs.

#### *High-Performing Communities (Subpart E)*

Section 424 of the McKinney-Vento Act establishes the authority for the establishment of and requirements for HPCs. Applications must be submitted by the collaborative applicant at such time and in such manner as HUD may require and contain such information as HUD determines necessary under § 578.17(b). Applications will be posted on the HUD Web site ([www.hud.gov](http://www.hud.gov)) for public comments. In addition to HUD's review of the applications, interested members of the public will be able to provide comment to HUD regarding the applications.

**Requirements.** The Continuum of Care must use HMIS data (HUD will publish data standards and measurement protocols) to determine that the standards for qualifying as a HPC are met. An applicant must submit a report showing how the Continuum of Care program funds were expended in the prior year, and provide information that the Continuum meets the standards for HPCs.

**Standards.** In order to qualify as an HPC, a Continuum of Care must demonstrate through reliable data that it meets all of the required standards. The interim rule clarifies which standards will be measured with reliable data from a Continuum's HMIS and which standards will be measured through reliable data from other sources and

presented in a narrative form or other format prescribed by HUD.

Continuums must use the HMIS to demonstrate the following measures: (1) That the mean length of homelessness must be less than 20 days for the Continuum's geographic area, or the Continuum's mean length of episodes for individuals and families in similar circumstances was reduced by at least 10 percent from the preceding year; (2) that less than 5 percent of individuals and families that leave homelessness become homeless again any time within the next 2 years, or the percentage of individuals and families in similar circumstances who became homeless again within 2 years after leaving homelessness was decreased by at least 20 percent from the preceding year; and (3) for Continuums of Care that served homeless families with youth defined as homeless under other federal statutes, that 95 percent of those families did not become homeless again within a 2-year period following termination of assistance and that 85 percent of those families achieved independent living in permanent housing for at least 2 years following the termination of assistance.

The McKinney-Vento Act requires that HUD set forth standards for preventing homelessness among the subset of those at the highest risk of becoming homeless among those homeless families and youth defined as homeless under other federal statutes, the third measure above, one of which includes achieving independent living in permanent housing among this population. HUD has set forth the standards of 95 percent and 85 percent. HUD recognizes that these standards are high, but standards are comparable to the other standards in the Act, which are high. It is HUD's position that HPCs should be addressing the needs of those homeless individuals within their communities prior to receiving designation of a HPC and being allowed to spend funds in accordance with § 578.71.

The final standard that the Continuum must use its HMIS data to demonstrate is provided under section 424(d)(4) of the Act. The statute requires each homeless individual or family who sought homeless assistance to be included in the data system used by that community. HUD has defined this as bed-coverage and service-volume coverage rates of at least 80 percent. The documentation that each homeless individual or family who sought homeless assistance be included in the HMIS is not measurable by HUD. This type of standard would be entirely reliant upon self-reporting. Additionally, individuals and families



have the right to decline having their data entered into the HMIS. HUD uses bed-coverage rates and service-volume coverage rates as a proxy for measuring the rate of inclusion of persons who are present for services or housing in the HMIS. This is a measurable standard, and HUD defines the calculation in the HMIS rule; therefore, the measurement will be consistent between Continuums.

Continuums must use reliable data from other sources and presented in a narrative form or other format prescribed by HUD to measure two standards: Community action and renewing HPC status. Section 424(d)(4) of the McKinney-Vento Act establishes another standard for HPCs, which is "community action." This statutory section provides that communities that compose the geographic area must have actively encouraged homeless individuals and families to participate in housing and services available in the geographic area and included each homeless individual or family who sought homeless assistance services in the data system used by that community for determining compliance. HUD has defined "communities that compose the geographic area" to mean the entire geographic area of the Continuum. This definition will also provide consistency of measurement since most of HUD's measurements are across the entire Continuum of Care geographic area. HUD has further defined "actively encourage" within this standard as a comprehensive outreach plan, including specific steps for identifying homeless persons and referring them to appropriate housing and services in that geographic area. The measurement of the last part of this standard, "each homeless individual or family who sought homeless assistance services in the data system used by that community," will be measured using reliable data from an HMIS and has been discussed earlier in this preamble. HUD has determined this will provide clarity and ensure consistent measurement across Continuums.

The interim rule provides that a Continuum of Care that was an HPC in the prior year and used Continuum funds for activities described under § 578.71 must demonstrate that these activities were effective at reducing the number of persons who became homeless in that community, to be renewed as a HPC.

**Selection.** HUD will select up to 10 Continuums of Care each year that best meet the application requirements and the standards set forth in § 578.65. Consistent with section 424 of the McKinney-Vento Act, the interim rule provides a HPC designation for the

grants awarded in the same competition in which the designation is applied for and made. The designation will be for a period of one year.

**Eligible activities.** Recipients and subrecipients in Continuums that have been designated an HPC may 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 for in the Emergency Solutions Grants program. All eligible activities discussed in this section must be effective at stabilizing individuals and families in their current housing, or quickly moving such individuals and families to other permanent housing. This is the only time that Continuum of Care funds may be used to serve nonhomeless individuals and families. Recipients and subrecipients using grant funds on these eligible activities must follow the written standards established by the Continuum of Care in § 578.7(a)(9)(v), and the recordkeeping requirements set for the Emergency Solutions Grants program rule.

#### *Program Requirements (Subpart F)*

All recipients of Continuum of Care funding must comply with the program regulations and the requirements of the NOFA issued annually by HUD.

**Matching.** The HEARTH Act allows for a new, simplified match requirement. All eligible funding costs except leasing must be matched with no less than a 25 percent cash or in-kind match. The interim rule clarifies that the match must be provided for the entire grant, except that recipients that are UFAs or are the sole recipient for the Continuum may provide the match on a Continuum-wide basis.

For in-kind match, the governmentwide grant requirements of HUD's regulations in 24 CFR 84.23 (for private nonprofit organizations) and 85.24 (for governments) apply. The regulations in 24 CFR parts 84 and 85 establish uniform administrative requirements for HUD grants. The requirements of 24 CFR part 84 apply to subrecipients that are private nonprofit organizations. The requirements of 24 CFR part 85 apply to the recipient and subrecipients that are units of general purpose local government. The match requirement in 24 CFR 84.23 and in 24 CFR 85.24 applies to administration funds, as well as Continuum of Care planning costs and UFA's financial management costs. All match must be spent on eligible activities as required under subpart D of this interim rule, except that recipients and subrecipients

in HPCs may use match on eligible activities described under § 578.71.

**General operations.** Recipients of grant funds must provide housing or services that comply with all applicable State and local housing codes, licensing requirements, and any other requirements in the project's jurisdiction. In addition, this interim rule clarifies that recipients must abide by housing quality standards and suitable dwelling size. Recipients must also assess supportive services on an ongoing basis, have residential supervision, and provide for participation of homeless individuals as required under section 426(g) of the McKinney-Vento Act.

**Specific request for comment.** With respect to housing quality standards, HUD includes in this rule the longstanding requirement from the Shelter Plus Care program that recipients or subrecipients, prior to providing assistance on behalf of a program participant, must physically inspect each unit to assure that the unit meets housing quality standards. This requirement is designed to ensure that program participants are placed in housing that is suitable for living. Additionally, these requirements are consistent with HUD's physical inspection requirements in its other mainstream rental assistance programs. Notwithstanding that this is a longstanding requirement, HUD welcomes comment on alternatives to inspection of each unit that may be less burdensome but ensure that the housing provided to a program participant is decent, safe, and sanitary.

Under Section 578.75, General Operations, subsection (h), entitled "Supportive Service Agreements," states that recipients and subrecipients may require program participants to take part in supportive services so long as they 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.

This provision further states that 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. For example, if a Continuum of Care recipient operates a transitional housing program with substance abuse treatment

services, the recipient may require program participants to participate in those services. By contrast, in a program that offers services but whose purpose is not substance abuse treatment, a recipient may not require a person who is an alcoholic, for example, to sign a supportive service agreement at initial occupancy stating that he or she will participate in substance abuse treatment services as a condition of occupancy. All program participants must, however, meet all terms and conditions of tenancy, including lease requirements. If, as a result of a person's behavior stemming from substance use, a person violates the terms of the lease, a recipient may consider requiring participation in services or any other action necessary in order for such a person to successfully meet the requirements of tenancy.

Finally, the interim rule clarifies that in units where the qualifying member of the household has died, or has been incarcerated or institutionalized for more than 90 days, assistance may continue until the expiration of the lease in effect at the time of the qualifying member's death, incarceration, or institutionalization.

**Displacement, relocation, and acquisition.** All recipients must ensure that they have taken all reasonable steps to minimize the displacement of persons as a result of projects assisted under this part. This section of the interim rule is substantially revised from the previous programs to increase clarity and comprehension of the directions to recipients and subrecipients in the use of grant funds.

**Timeliness standards.** Recipients must initiate approved activities and projects promptly. Recipients of funds for rehabilitation and new construction must begin construction activities within 9 months of the signing of the grant, and such activities must be completed within 24 months. HUD is providing these requirements to assist communities in meeting the obligation and expenditure deadline historically imposed by the annual HUD appropriations act. HUD may reduce a grant term to a term of one year if implementation delays reduce the amount of funds that can be used during the original grant term.

**Limitation on use of funds.** Recipients of funds provided under this part must abide by any limitations that apply to the use of such funds, such as use of funds for explicitly religious activities.

The limitation on use of funds also addresses limitation on uses where religious activities may be concerned. It is HUD's position that faith-based organizations are able to compete for

HUD funds and participate in HUD programs on an equal footing with other organizations; that no group of applicants competing for HUD funds should be subject, as a matter of discretion, to greater or fewer requirements than other organizations solely because of their religious character or affiliation, or, alternatively, the absence of religious character or affiliation. HUD's general principles regarding the equal participation of such organizations in its programs are codified at 24 CFR 5.109. Program-specific requirements governing faith-based activities are codified in the regulations for the individual HUD programs. (See, for example, 24 CFR 574.300(c), 24 CFR 582.115(c), and 24 CFR 583.150(b).)

HUD's equal participation regulations were prompted by Executive Order 13279, Equal Protection of the Laws for Faith-Based and Community Organizations, issued by President Bush on December 12, 2002, and published in the Federal Register on December 16, 2002 (67 FR 77141). Executive Order 13279 set forth principles and policymaking criteria to guide federal agencies in ensuring the equal protection of the laws for faith-based and community organizations. Executive Order 13279 was amended by Executive Order 13559 (Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations), issued by President Obama on November 17, 2010, and published in the Federal Register on November 22, 2010 (75 FR 71319).

Executive Order 13559 expands on the equal participation principles provided in Executive Order 13279 to strengthen the capacity of faith-based and other neighborhood organizations to deliver services effectively and ensure the equal treatment of program beneficiaries. Executive Order 13559 reiterates a key principle underlying participation of faith-based organizations in federally funded activities and that is that faith-based organizations be eligible to compete for federal financial assistance used to support social service programs and to participate fully in social service programs supported with federal financial assistance without impairing their independence, autonomy, expression outside the programs in question, or religious character.

With respect to program beneficiaries, the Executive Order states that organizations, in providing services supported in whole or in part with federal financial assistance, and in their outreach activities related to such

services, should not be allowed to discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice. The Executive Order directs that organizations that engage in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) must perform such activities and offer such services outside of programs that are supported with direct federal financial assistance (including through prime awards or subawards), separately in time or location from any such programs or services supported with direct federal financial assistance, and participation in any such explicitly religious activities must be voluntary for the beneficiaries of the social service program supported with such federal financial assistance. For purposes of greater clarity and comprehensibility, the Executive Order uses the term "explicitly religious" in lieu of "inherently religious." The Executive Order further directs that if a beneficiary or prospective beneficiary of a social service program supported by federal financial assistance objects to the religious character of an organization that provides services under the program, that organization shall, within a reasonable time after the date of the objection, refer the beneficiary to an alternative provider.

Executive Order 13559 provides for the establishment of an Interagency Working Group on Faith-Based and Other Neighborhood Partnerships (Working Group) to review and evaluate existing regulations, guidance documents, and policies, and directs the OMB to issue guidance to agencies on uniform implementation following receipt of the Working Group's report. On April 27, 2012, the Working Group issued its report, recommending a model set of regulations and guidance for agencies to adopt.<sup>1</sup>

HUD intends to wait for OMB guidance before initiating any rulemaking directed to broader changes to HUD's existing faith-based regulations, to ensure consistency with faith-based regulations of other federal agencies. However, HUD has revised its regulatory provisions governing faith-based activities to incorporate the principles of Executive Order 13559 pertaining to equal treatment of program beneficiaries and to adopt terminology, such as "explicitly religious" and "overt

<sup>1</sup> The report is available at: <http://www.whitehouse.gov/sites/default/files/uploads/finalfaithbasedworkinggroupreport.pdf>.

religious content," that offers greater clarity to the limitations placed on faith-based organizations when using federal funds for their supportive services. Additionally, HUD is putting in place through this rulemaking the provision of Executive Order 13559 that directs the referral to alternative providers. Executive Order 13559 provides that if a beneficiary or prospective beneficiary of a social service program supported by federal financial assistance objects to the religious character of an organization that provides services under the program, that organization shall, within a reasonable time frame after the date of the objection, refer the beneficiary to an alternative provider. While HUD will benefit from OMB guidance on other provisions of the Executive Order, specifically those which the Working Group is charged to provide recommendations, the "referral" provision of the Executive Order is one that HUD believes it can immediately put in place. HUD may, following receipt of public comment and further consideration of this issue, revise how recipients and subrecipients document the referral to other providers when beneficiaries may assert objections to the original provider. For now, HUD is requiring that any objections and any referrals be documented in accordance with the recordkeeping provisions of § 578.013.

This section of the interim rule also contains limitations on the types of eligible assistance that may not be combined in a single structure or housing unit. As the Continuum of Care substantially increases the types of assistance that may be combined in a project from previous programs, HUD has established standards in this section to provide recipients with clarity about the types of activities that may not be carried out in a single structure or housing unit.

**Termination of assistance.** The interim rule provides that a recipient may terminate assistance to a participant who violates program requirements or conditions of occupancy. The recipient must provide a formal process that recognizes the due process of law. Recipients may resume assistance to a participant whose assistance has been terminated.

Recipients that are providing permanent supportive housing for hard-to-house populations of homeless persons must exercise judgment and examine all circumstances in determining whether termination is appropriate. Under this interim rule, HUD has determined that a participant's assistance should be terminated only in the most severe cases. HUD is carrying

over this requirement from the Shelter Plus Care program.

**Fair Housing and Equal Opportunity requirements.** The Continuum of Care, as well as its members and subrecipients, are required to comply with applicable civil rights laws. Section 578.93, addressing nondiscrimination and equal opportunity requirements, is provided to offer greater direction to recipients and subrecipients on the use of grant funds. Section 578.93(a) states that the nondiscrimination and equal opportunity requirements set forth in 24 CFR 5.105(a) apply. This includes, but is not limited to, the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (Section 504), and title II of the Americans with Disabilities Act.

Section 578.93(b) explains when recipients and subrecipients may exclusively serve a particular subpopulation in transitional or permanent housing. As part of these requirements, recipients must also administer programs and activities receiving federal financial assistance in the most integrated setting appropriate to the needs of qualified individuals with disabilities. This "integration mandate" requires that HUD-funded programs or activities enable individuals with disabilities to interact with nondisabled persons to the fullest extent possible. In reviewing requests for funding through the Continuum of Care NOFA, HUD will be considering each recipient's proposals to provide integrated housing to individuals with disabilities.

There are certain situations in which a recipient or subrecipient may limit housing to a specific subpopulation, so long as admission does not discriminate against any protected class, as well as instances where recipients or subrecipients may limit admission or provide a preference to certain subpopulations of homeless persons and families who need the specialized services provided in the housing. For example, § 578.93(b)(2) states that the housing may be limited to homeless veterans, so long as admission is not denied based on any membership in a protected class; e.g., homeless veterans with families must be admitted. Similarly, housing may be limited to domestic violence victims and their families or persons who are at risk of institutionalization, so long as admission is not denied based on any membership in a protected class.

Section 578.93(b)(3) states that housing may be limited to families with children.

Section 578.93(b)(1) states that, in consideration of personal privacy, housing may only be limited to a single sex when 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.

Further, §§ 578.93(b)(4) and (5) clearly outline instances when sex offenders or violent offenders may be excluded from housing, and when projects providing sober housing may exclude persons.

HUD's Section 504 regulations permit housing funded under a particular program to be reserved for persons with a specific disability when a federal statute or executive order specifically authorizes such a limitation. Section 578.93(b)(6) states that 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.

Section 578.93(b)(7) provides clarification to recipients of funds under this part as to when a project can limit admission to a specific subpopulation of homeless individuals and families based on the service package offered in the project. To help recipients better understand these requirements, the following paragraphs provide a detailed explanation of the regulatory provision, along with a few examples.

Section 578.93(b)(7) states that 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. The regulation contains the following examples: Substance abuse addiction treatment, domestic violence services, or a high-intensity package designed to meet the needs of hard-to-reach homeless persons. However, § 578.93(b)(7) further states that while the housing may offer services for a particular type of disability, no otherwise eligible individual with a disability, or family that includes 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. Below are general examples to offer guidance on this subsection. Please note that these examples are nonexhaustive, but emphasize that the proper focus is on the services available as part of the Continuum of Care project as opposed to a person's category or subcategory of disability. While these general principles are offered to help clarify this



section, a change in the factual scenario may change the analysis.

One clarifying example is as follows. A private, nonprofit organization or a local government applies for and receives a new grant under this part to provide project-based rental assistance and services, including case management, intensive therapy provided by a psychiatrist, and medication management. The recipient or subrecipient may establish a preference for individuals who are chronically homeless. When filling an opening in the housing, the recipient or subrecipient may target chronically homeless individuals or families, but if there are no such individuals or families either on a waiting list or applying for entrance to the program, the recipient or subrecipient cannot deny occupancy to individuals or families who apply for entrance into the program and who may benefit from the services provided. When filling a vacancy in the housing, the recipient or subrecipient, if presented with two otherwise eligible persons, one who is chronically homeless and one who is not, may give a preference to the chronically homeless individual.

By comparison, § 578.93(b)(6) addresses situations where Continuum of Care funds are combined with HUD funding for housing that may be restricted to a specific disability. For example, if Continuum of Care funds for a specific project are combined with construction or rehabilitation funding for housing from the Housing Opportunities for People With AIDS program, the program may limit eligibility for the project to persons with HIV/AIDS and their families. An individual or a family that includes an individual with a disability may be denied occupancy if the individual or at least one member of the family does not have HIV/AIDS.

In another example, a private, nonprofit organization applies for and receives Continuum of Care funds from a local governmental entity to rehabilitate a five-unit building, and provides services including assistance with daily living and mental health services. While the nonprofit organization intends to target and advertise the project as offering services for persons with developmental disabilities, an individual with a severe psychiatric disability who does not have a developmental disability but who can benefit from these services cannot be denied.

Section 578.93(e) incorporates the "preventing involuntary family separation" requirement set forth in Section 404 of the McKinney-Veto Act

into this interim rule. This provision clarifies, especially for projects where the current policy is to deny the admittance of a boy under the age of 18, that denying admittance to a project based on age and gender is no longer permissible. HUD encourages Continuums of Care to use their centralized or coordinated assessment systems to find appropriate shelter or housing for families with male children under the age of 18.

*Specific request for comment.* HUD specifically seeks comments from Continuum of Care-funded recipients on this requirement. HUD invites comments about the difficulty that recipients are going to experience, if any, in implementing this requirement. In addition to comments about the difficulties, HUD invites communities that have already implemented this requirement locally to describe their methods for use in HUD's technical assistance materials and for posting on the HUD Homeless Resource Exchange.

*Other standards.* In addition to the program requirements described in this preamble, the interim rule sets forth other program requirements by which all recipients of grant funds must abide. These include a limitation on the use of grant funds to serve persons defined as homeless under other federal laws, conflicts of interest standards, and standards for identifying uses of program income.

Additionally, recipients are required to follow other federal requirements contained in this interim rule under § 578.99. These include compliance with such federal requirements as the Coastal Barriers Resources Act, OMB Circulars, HUD's Lead-Based Paint regulations, and audit requirements. The wording of these requirements has been substantially revised from previous programs, with the objective being to increase clarity and comprehension of the directions to recipients and subrecipients in the use of grant funds.

#### *Administration (Subpart G)*

*Technical assistance.* The purpose of technical assistance under the Continuum of Care program 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. Technical assistance will also improve the capacity to prepare applications, and prevent the separation of families in projects funded under the Emergency Solutions Grants, Continuum of Care, and Rural Housing Stability Assistance programs. Under this interim rule, 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 written information, such as papers, manuals, guides, and brochures; person-to-person exchanges; and training and related costs.

Therefore, as needed, HUD may advertise and competitively select providers to deliver technical assistance. HUD may enter into contracts, grants, or cooperative agreements to implement the technical assistance. HUD may also enter into agreements with other federal agencies when awarding technical assistance funds.

*Recordkeeping requirements.* Grant recipients under the Supportive Housing Program and the Shelter Plus Care program have always been required to show compliance with regulations through appropriate records. However, the existing regulations are not specific about the records to be maintained. The interim rule for the Continuum of Care program elaborates upon the recordkeeping requirements to provide sufficient notice and clarify the documentation that HUD requires for assessing compliance with the program requirements. The recordkeeping requirements for documenting homeless status were published in the December 5, 2011, Defining Homeless final rule. Because these recordkeeping requirements already went through a 60-day comment period, HUD is not seeking further comment on these requirements. Additionally, recordkeeping requirements with similar levels of specificity apply to documentation of "at risk of homelessness" and these requirements can be found in § 578.500(c) of the Emergency Solutions Grants program interim rule published on December 5, 2011. Because the documentation requirements pertaining to "at risk of homelessness" were already subject to a 60-day public comment period, HUD is not seeking additional comment on these requirements. Further requirements are modeled after the recordkeeping requirements for the HOME Investment Partnerships Program (24 CFR 92.508) and other HUD regulations.

Included along with these changes are new or expanded requirements regarding confidentiality, rights of access to records, record retention periods, and reporting requirements. Most significantly, to protect the safety and privacy of all program participants, the Continuum of Care rule broadens the program's confidentiality requirements. The McKinney-Vento Act requires only procedures to ensure the

confidentiality of records pertaining to any individual provided family violence prevention or treatment services under this program. The interim rule requires written procedures to ensure the security and confidentiality of all records containing personally identifying information of any individual or family who applies for and/or receives Continuum of Care assistance.

**Grant and project changes.** The interim rule provides that recipients of grants may not make any significant changes to use of grant funds without prior HUD approval, evidenced by a grant amendment signed by HUD and the recipient. The interim rule provides separate standards for determining when a grant amendment is required for Continuums having only one recipient, including UFAs, and Continuums having more than one recipient. Additionally, the interim rule provides contingencies that must be met before HUD will approve the grant amendment. These contingencies are necessary to ensure that recipients meet the capacity requirements established in the NOFA and to ensure that eligible persons within the geographic area are better served and, since the Continuum of Care program is a competitive program, that the priorities established under the NOFA continue to be met. Any changes to an approved grant or project that do not require a grant amendment, as set forth in this section, must be fully documented in the recipient's or subrecipient's records.

**Sanctions.** The interim rule establishes sanctions based on existing regulations and strengthens the enforcement procedures and array of remedial actions and sanctions for recipients and subrecipients of Continuum of Care funds. These revisions draw from the requirements at 24 CFR 85.43 and other HUD program regulations.

**Close-out.** The interim rule provides that grants must be closed out at the end of their grant term if recipients are not seeking renewal. Section 578.109 of this interim rule specifies the actions that must be taken after the closeout, including grantee submission of financial, final performance, or other reports required by HUD within 90 days of the end of the grant term. Any unused funds must be deobligated and returned to HUD.

The interim rule stipulates, for grants seeking renewal, that failure to submit final performance reports, or other reports required by HUD within 90 days, may cause renewal funds to be withdrawn and grant funds expended on the renewal grant to be repaid.

### III. Regulations for HUD Homeless Assistance Programs Existing Prior to Enactment of HEARTH Act

Because grants are still being administered under the Shelter Plus Care program and the Supportive Housing program, the regulations for these programs in 24 CFR parts 582, and 583, respectively, will remain in the Code of Federal Regulations for the time being. When no more, or very few, grants remain under these programs, HUD will remove the regulations in these parts by a separate rule (if no grants exist) or will replace them with a savings clause, which will continue to govern grant agreements executed prior to the effective date of the HEARTH Act regulations.

### IV. Conforming Regulations

In addition to establishing the new regulations for the Continuum of Care program, HUD is amending the following regulations, which reference the Shelter Plus Care Program and the Supportive Housing Program, to include reference to the Continuum of Care program. These regulations are the regulations pertaining to: (1) Family Income and Family Payment; Occupancy Requirements for Section 8 and Public Housing, Other HUD-Assisted Housing Serving Persons with Disabilities, and Section 8 Project-Based Assistance, the regulations for which are in 24 CFR part 5, subpart F, specifically, § 5.601 (Purpose and Applicability), paragraphs (d) and (e) of this section; § 5.603 (Definitions), specifically the definition of "Responsible Entity;" § 5.617 (Self-Sufficiency Incentives for Persons with Disabilities—Disallowance of Increase in Annual Income), paragraph (a) of this section; (2) Environmental Review Responsibilities for Entities Assuming HUD Environmental Responsibilities, the regulations for which are in 24 CFR part 58, specifically § 58.1 (Purpose and Applicability), paragraph (b)(3) of this section; and (3) the Consolidated Submissions for Community Planning and Development Programs, the regulations for which are in 24 CFR part 91, specifically, § 91.2 (Applicability), paragraph (b) of this section.

### V. Justification for Interim Rulemaking

In accordance with its regulations on rulemaking at 24 CFR part 10, HUD generally publishes its rules for advance public comment.<sup>2</sup> Notice and public

procedures may be omitted, however, if HUD determines that, in a particular case or class of cases, notice and public comment procedure are "impracticable, unnecessary, or contrary to the public interest." (See 24 CFR 10.1.)

In this case, HUD has determined that it would be contrary to the public interest to delay promulgation of the regulations for the Continuum of Care program.<sup>3</sup> Congress has provided funding for this new program in the Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. 112-55, approved November 18, 2011) (FY 2012 Appropriations Act), under the account for Homeless Assistance Grants, appropriates not less than \$1.593 billion for the Continuum of Care and Rural Housing Stability programs. While many federal programs, including HUD programs, received a reduction in funding in the FY 2012 Appropriations Act, Congress increased funding for HUD's homeless assistance grants, including the Continuum of Care program. Additionally, the Conference Report accompanying the FY 2012 Appropriations Act (House Report 112-284) states in relevant part, as follows: "The conferees express concern that HUD continued to implement pre-HEARTH grant programs in FY 2011, due to a lack of regulations. The conferees direct HUD to publish at least interim guidelines for the Emergency Solutions Grants and Continuum of Care programs this fiscal year and to implement the new grant programs as soon as possible so that the updated policies and practices in HEARTH can begin to govern the delivery of homeless assistance funding." (See Conf. Rpt. at page 319. Emphasis added.) Given this congressional direction, HUD is issuing this rule providing for regulations for the Continuum of Care program as an interim rule. Having interim regulations in place will allow HUD to move forward in making FY 2012 funds available to grantees, and avoid a significant delay that would result from issuance, first, of a proposed rule. As

management or personnel or to public property, loans, grants, benefits, or contracts are exempt from the advance notice and public comment requirement of sections 553(b) and (c) of the APA. In its regulations in 24 CFR 10.1, HUD has waived the exemption for advance notice and public comment for matters that relate to public property, loans, grants, benefits, or contracts, and has committed to undertake notice and comment rulemaking for these matters.

<sup>3</sup> Although HUD's regulation in 24 CFR 10.1 provide that HUD will involve public participation in its rulemaking, this regulation also provides that notice and public procedure will be omitted if HUD determines in a particular case or class of cases that notice and public procedure are impracticable, unnecessary, or contrary to the public interest.

<sup>2</sup> The Administrative Procedure Act (5 U.S.C. Subchapter II) (APA), which governs federal rulemaking, provides in section 553(a) that matters involving a military or foreign affairs function of the United States or a matter relating to federal agency

has been discussed in this preamble, the foundation for the Continuum of Care regulations is the criteria and requirements provided in NOFAs for the Continuum of Care Homeless Assistance Grants Competition program, which HUD has funded for more than 10 years. Through the Continuum of Care Homeless Assistance Grants Competition program, HUD provided funding for the Supportive Housing program, the Shelter Plus Care program, and the Section 8 Moderate Rehabilitation Single Room Occupancy program. The HEARTH Act consolidated these three competitive programs into the statutorily established Continuum of Care program, which was established as a single grant program. Interim regulations will provide certainty with respect to funding requirements and eligible expenditures for FY 2012, and the public comment solicited through this interim rule will help inform the public procedures that HUD is contemplating in its regulations in 24 CFR part 10, and this public comment, in turn, will inform the final rule that will follow this interim rule and govern the funding years following FY 2012.

For the reasons stated above, HUD is issuing this rule to take immediate effect, but welcomes all comments on this interim rule and all comments will be taken into consideration in the development of the final rule.

## VI. Findings and Certifications

### *Regulatory Review—Executive Orders 12866 and 13563*

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are "outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned." Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. This rule was determined to be a "significant regulatory action," as defined in section 3(f) of Executive Order 12866 (although not an economically significant

regulatory action, as provided under section 3(f)(1) of the Executive Order).

As has been discussed in this preamble, this interim rule establishes the regulations for the Continuum of Care program, which is the HEARTH Act's codification of HUD's long-standing Continuum of Care planning process. The HEARTH Act not only codified in law the planning system known as Continuum of Care, but consolidated the three existing competitive homeless assistance grant programs (Supportive Housing, Shelter Plus Care, and Single Room Occupancy) into the single grant program known as the Continuum of Care program. As discussed in the preceding section of the preamble, HUD funded these three programs for more than 10 years through a NOFA, which was titled the Continuum of Care Homeless Assistance Grants Competition Program. However, the funding of the three competitive grant programs, although done through a single NOFA, delineated the different statutes and regulations that governed each of the three programs (see, for example, HUD's 2008 Continuum of Care NOFA at 73 FR 398450, specifically page 39845). In consolidating these three competitive programs into a single grant program, the HEARTH Act achieves the administrative efficiency that HUD strived to achieve to the extent possible, through its administrative establishment of the Continuum of Care planning process. To the extent permitted by the HEARTH Act and where feasible, the regulations build-in flexibility for grantees, based on experience in administering the Continuum of Care program to date. Given the transition from administrative operation of the Continuum of Care program to statutory operation of the Continuum of Care program, this interim rule would also have no discernible impact upon the economy.

The docket file is available for public inspection in the Regulations Division, Office of the General Counsel, Room 10276, 451 7th Street SW., Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339.

### Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in

accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the FONSI by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This interim rule does not impose a federal mandate on any State, local, or tribal government, or on the private sector, within the meaning of UMRA.

### Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule solely addresses the allocation and use of grant funds under the new McKinney-Vento Act homeless assistance programs, as consolidated and amended by the HEARTH Act. As discussed in the preamble, the majority of the regulatory provisions proposed by this rule track the regulatory provisions of the Continuum of Care program, with which prospective recipients of the Supportive Housing program and the Shelter Plus Care program are familiar. Accordingly, the program requirements should raise minimal issues because applicants and grantees are familiar with these requirements, and in response to HUD's solicitations to them on the burden of the requirements for the Supportive Housing program and the Shelter Plus Care program, grantees have not advised that such requirements are burdensome. Therefore, HUD has determined that this rule would not



have a significant economic impact on a substantial number of small entities.

Notwithstanding HUD's determination that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes

substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments nor preempts State law within the meaning of the Executive Order.

Paperwork Reduction Act

The information collection requirements contained in this interim

rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

The burden of the information collections in this interim rule is estimated as follows:

REPORTING AND RECORDKEEPING BURDEN

Information collection	Number of respondents	Response frequency (average)	Total annual responses	Burden hours per response	Total annual hours
§ 578.5(a) Establishing the CoC .....	450	1	450	8.0	3,600
§ 578.5(b) Establishing the Board .....	450	1	450	5.0	2,250
§ 578.7(a)(1) Hold CoC Meetings .....	450	2	900	4.0	3,600
§ 578.7(a)(2) Invitation for New Members .....	450	1	450	1.0	450
§ 578.7(a)(4) Appoint committees .....	450	2	900	0.5	450
§ 578.7(a)(5) Governance charter .....	450	1	450	7.0	3,150
§ 578.7(a)(6) and (7) Monitor performance and evaluation .....	450	4	450	9.0	4,050
§ 578.7(a)(8) Centralized or coordinated assessment system .....	450	1	450	8.0	3,600
§ 578.7(a)(9) Written standards .....	450	1	450	5.0	2,250
§ 578.7(b) Designate HMIS .....	450	1	450	10.0	4,500
§ 578.9 Application for funds .....	450	1	450	180.0	81,000
§ 578.11(c) Develop CoC plan .....	450	1	450	9.0	4,050
§ 578.21(c) Satisfying conditions .....	8,000	1	8,000	4.0	32,000
§ 578.23 Executing grant agreements .....	8,000	1	8,000	1.0	8,000
§ 578.35(b) Appeal—solo .....	10	1	10	4.0	40
§ 578.35(c) Appeal—denied or decreased funding .....	15	1	15	1.0	15
§ 578.35(d) Appeal—competing CoC .....	10	1	10	5.0	50
§ 578.35(e) Appeal—Consolidated Plan certification .....	5	1	5	2.0	10
§ 578.49(a)—Leasing exceptions .....	5	1	5	1.5	7.5
§ 578.65 HPC Standards .....	20	1	20	10.0	200
§ 578.75(a)(1) State and local requirements—appropriate service provision .....	7,000	1	7,000	0.5	3,500
§ 578.75(a)(1) State and local requirements—housing codes .....	20	1	20	3.0	60
§ 578.75(b) Housing quality standards .....	72,800	2	145,600	1.0	145,600
§ 578.75(b) Suitable dwelling size .....	72,800	2	145,600	0.08	11,648
§ 578.75(c) Meals .....	70,720	1	70,720	0.5	35,360
§ 578.75(e) Ongoing assessment of supportive services .....	8,000	1	8,000	1.5	12,000
§ 578.75(f) Residential supervision .....	6,600	3	19,800	0.75	14,850
§ 578.75(g) Participation of homeless individuals .....	11,500	1	11,500	1.0	11,500
§ 578.75(h) Supportive service agreements .....	3,000	100	30,000	0.5	15,000
§ 578.77(a) Signed leases/occupancy agreements .....	104,000	2	208,000	1.0	208,000
§ 578.77(b) Calculating occupancy charges .....	1,840	200	368,000	0.75	276,000
§ 578.77(c) Calculating rent .....	2,000	200	400,000	0.75	300,000
§ 578.81(a) Use restriction .....	20	1	20	0.5	10
§ 578.91(a) Termination of assistance .....	400	1	400	4.00	1,600
§ 578.91(b) Due process for termination of assistance .....	4,500	1	4,500	3.0	13,500
§ 578.95(d)—Conflict-of-Interest exceptions .....	10	1	10	3.0	30
§ 578.103(a)(3) Documenting homelessness .....	300,000	1	300,000	0.25	75,000
§ 578.103(a)(4) Documenting at risk of homelessness .....	10,000	1	10,000	0.25	2,500
§ 578.103(a)(5) Documenting imminent threat of harm .....	200	1	200	0.5	100
§ 578.103(a)(7) Documenting program participant records .....	350,000	6	2,100,000	0.25	525,000
§ 578.103(a)(7) Documenting case management .....	8,000	12	96,000	1.0	96,000
§ 578.103(a)(13) Documenting faith-based activities .....	8,000	1	8,000	1.0	8,000
§ 578.103(b) Confidentiality procedures .....	11,500	1	11,500	1.0	11,500
§ 578.105(a) Grant/project changes—UFAs .....	20	2	40	2.0	80
§ 578.105(b) Grant/project changes—multiple project applicants .....	800	1	800	2.0	1,600
<b>Total .....</b>					<b>1,921,710.5</b>

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions HUD, including whether the information will have practical utility;

(2) Evaluate the accuracy of HUD's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this rule. Comments must refer to the proposal by name and docket number (FR-5476-I-01) and be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Fax: (202) 395-6947, and Reports Liaison Officer, Office of the Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7233, Washington, DC 20410-7000.

Interested persons may submit comments regarding the information collection requirements electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

#### List of Subjects in 24 CFR Part 578

Community facilities, Continuum of Care, Emergency solutions grants, Grant programs—housing and community development, Grant program—social programs, Homeless, Rural housing, Reporting and recordkeeping requirements, Supportive housing

programs—housing and community development, Supportive services.

Accordingly, for the reasons described in the preamble, HUD adds part 578 to subchapter C of chapter V of subtitle B of 24 CFR to read as follows:

### PART 578—CONTINUUM OF CARE PROGRAM

#### Subpart A—General Provisions

Sec.

- 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.

Authority: 42 U.S.C. 11371 *et seq.*, 42 U.S.C. 3535(d).

#### 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.* (1) An individual who:

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

(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 one year or on at least four separate occasions in the last 3 years; and

(iii) Can be diagnosed with one or more of the following conditions: substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance Bill of Rights Act of 2000 (42 U.S.C. 15002)), post-traumatic stress disorder, cognitive impairments resulting from brain injury, or chronic physical illness or disability;

(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) 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 area 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;
  - (iii) Policies and procedures for determining and prioritizing which eligible individuals and families will receive rapid rehousing assistance;
  - (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; 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.

#### § 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 24 CFR 84.21 (for nonprofit organizations) and 24 CFR 85.20 (for States);

(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 parts 84 and 85 and corresponding OMB circulars.

(4) Obtain approval of any proposed grant agreement amendments by the Continuum of Care before submitting a request for an amendment to HUD.

#### § 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.

#### § 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.

#### § 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. 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.

(1) Up to 5 years worth of rental assistance may be awarded to a project in one competition.

(2) Program participants who have complied with all program requirements during their residence retain the rental assistance if they move within the Continuum of Care geographic area.

(3) Program participants who have complied with all program requirements during their residence and who have been a victim of domestic violence, dating violence, sexual assault, or stalking, and 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 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.

(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.

#### § 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.

(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.

#### § 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 OMB Circulars A-87 or A-122, as applicable.

(b) *Allocation.* Indirect costs may be allocated to each eligible activity as provided in subpart D, so long as that allocation is consistent with an indirect cost rate proposal developed in accordance with OMB Circulars A-87 or A-122, as applicable.

(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.

#### 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.* 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 24 CFR 84.23 and 85.24 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.

#### § 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) *Faith-based activities.* (1) *Equal treatment of program participants and program beneficiaries.* (i) *Program participants.* Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the Continuum of Care program. Neither the Federal Government nor a State or local government receiving funds under the Continuum of Care program shall discriminate against an organization on the basis of the organization's religious character or affiliation. Recipients and subrecipients of program funds shall not, in providing program assistance, discriminate against a program participant or prospective program participant on the basis of religion or religious belief.

(ii) *Beneficiaries.* In providing services supported in whole or in part with federal financial assistance, and in their outreach activities related to such services, program participants shall not discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

(2) *Separation of explicitly religious activities.* Recipients and subrecipients of Continuum of Care funds that engage in explicitly religious activities, including activities that involve overt religious content such as worship, religious instruction, or proselytization, must perform such activities and offer such services outside of programs that are supported with federal financial assistance separately, in time or location, from the programs or services funded under this part, and participation in any such explicitly religious activities must be voluntary for the program beneficiaries of the HUD-funded programs or services.

(3) *Religious identity.* A faith-based organization that is a recipient or subrecipient of Continuum of Care program funds is eligible to use such

funds as provided under the regulations of this part without impairing its independence, autonomy, expression of religious beliefs, or religious character. Such organization will retain its independence from federal, State, and local government, and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct program funds to support or engage in any explicitly religious activities, including activities that involve overt religious content, such as worship, religious instruction, or proselytization, or any manner prohibited by law. Among other things, faith-based organizations may use space in their facilities to provide program-funded services, without removing or altering religious art, icons, scriptures, or other religious symbols. In addition, a Continuum of Care program-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(4) *Alternative provider.* If a program participant or prospective program participant of the Continuum of Care program supported by HUD objects to the religious character of an organization that provides services under the program, that organization shall, within a reasonably prompt time after the objection, undertake reasonable efforts to identify and refer the program participant to an alternative provider to which the prospective program participant has no objection. Except for services provided by telephone, the Internet, or similar means, the referral must be to an alternate provider in reasonable geographic proximity to the organization making the referral. In making the referral, the organization shall comply with applicable privacy laws and regulations. Recipients and subrecipients shall document any objections from program participants and prospective program participants and any efforts to refer such participants to alternative providers in accordance with the requirements of § 578.103(a)(13). Recipients shall ensure that all subrecipient agreements make organizations receiving program funds aware of these requirements.

(5) *Structures.* Program funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for explicitly religious activities. Program funds may

be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. When a structure is used for both eligible and explicitly religious activities, program funds may not exceed the cost of those portions of the acquisition, new construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to the Continuum of Care program. Sanctuaries, chapels, or other rooms that a Continuum of Care program-funded religious congregation uses as its principal place of worship, however, are ineligible for Continuum of Care program-funded improvements. Disposition of real property after the term of the grant, or any change in the use of the property during the term of the grant, is subject to governmentwide regulations governing real property disposition (see 24 CFR parts 84 and 85).

(6) *Supplemental funds.* If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.

(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.

**§ 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 codes of conduct and conflict-of-interest requirements under 24 CFR 85.36 (for governments) and 24 CFR

84.42 (for private nonprofit organizations).

(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.

#### § 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.fgws.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 OMB Circulars.* The requirements of 24 CFR part 85—Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments and 2 CFR part 225—Cost Principles for State, Local and Indian Tribal Governments (OMB Circular A-87)—apply to governmental recipients and subrecipients except where inconsistent with the provisions of this part. The requirements of 24 CFR part 84—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; 2 CFR part 230—Cost Principles for Non-Profit Organizations (OMB Circular A-122); and 2 CFR part 220—Cost Principles for Education Institutions apply to the nonprofit 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 OMB Circular A-133, "Audits of States, Local Governments, and Non-profit Organizations."

(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 135, as applicable.

#### 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 578.500(b).

(4) *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 578.500(c).

(5) *Records of reasonable belief of imminent threat of harm.* 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:

(i) 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.

(ii) 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.

(6) *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.

(7) *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.

(8) *Housing standards.* The recipient or subrecipient must retain documentation of compliance with the housing standards in § 578.75(b), including inspection reports.

(9) *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.

(10) *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.

(11) *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.

(12) *Homeless participation.* The recipient or subrecipient must document its compliance with the homeless participation requirements under § 578.75(g).

(13) *Faith-based activities.* The recipient and its subrecipients must document their compliance with the faith-based activities requirements under § 578.87(b).

(14) *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).

(15) *Other federal requirements.* The recipient and its subrecipients must document their compliance with the federal requirements in § 578.99, as applicable.

(16) *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 24 CFR 85.36 and 24 CFR part 84.

(17) *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 24 CFR parts 84 and 85, 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).

#### § 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 24 CFR parts 84 and 85, 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.

Dated: June 28, 2012.

Mark Johnston,

Assistant Secretary for Community Planning and Development (Acting).

[FR Doc. 2012-17546 Filed 7-30-12; 8:45 am]

BILLING CODE 4210-67-P

CONTRACT ROUTING CHECKLIST

#10011

CONTRACT TYPE: SUBRECIPIENT CONTRACT

SUBJECT: Project known as: PERMANENT SUPPORTIVE HOUSING PROGRAM  
HUD GRANT # FL0923L4D032201

between Lee County and COMMUNITY ASSISTED AND SUPPORTED LIVING, INC. (CASL)

Reference: Agenda Item Report; Board action to approve attached contract on:

Agenda Item #12 DATE: 04/18/2023

The subject contract is forwarded herewith for review and/or endorsements:

(1) By the Director of Human & Veteran Services

Project Sponsoring Department

Recommending Execution  
 Not recommending execution for the following reason(s) \_\_\_\_\_

Date Received 1/8/2023 Date returned/forwarded 1/9/2023

Signed *Clare Moller*

(2) By Risk Management

Recommending Execution  
 Not recommending execution for the following reason(s) \_\_\_\_\_

FVI only: some coverages expire 2/24 & 5/24, will need updated COI soon  
Date Received 1/10/2024 Date returned/forwarded 1/10/24

Signed *[Signature]*

(3) By the County Attorney

Recommending Execution  
 Not recommending execution for the following reason(s) \_\_\_\_\_

Date Received 1/11/2024 Date returned/forwarded 01-12-24

Signed *[Signature]*

(4) Chairman, Board of County Commissioners *[Signature]*

(5) Clerks Office, Minutes Department \_\_\_\_\_

(6) Laurel Chick, County Administration \_\_\_\_\_

(7) Diana Schnabel, Human & Veteran Services \_\_\_\_\_

~~2025 JAN 17 PM 2:00~~

RECEIVED  
MINUTES OFFICE

2024 JAN 11 AM 11:43  
RECEIVED BY  
LEE CO. ATTORNEY

## AGENDA ITEM REPORT

**DATE:** April 18, 2023  
**DEPARTMENT:** Human and Veteran Services  
**REQUESTER:** Roger Mercado  
**TITLE:** Accept Continuum of Care Grant Funds from HUD

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**I. MOTION REQUESTED**

- A) Accept \$2,012,619 in Continuum of Care (CoC) grant funds from U.S. Department of Housing and Urban Development (HUD).
- B) Approve budget amendment resolution to add \$2,012,619 in grant funds to the 2022-2023 budget.
- C) Authorize Chair, on behalf of the Board, to execute U.S. Department of Housing and Urban Development (HUD) grant agreements, sub-recipient contracts, and future necessary amendments that do not substantially change the overall intent of the agreement/contract, once received.
- D) Authorize County Manager or designee to sign grant/project reports.

**II. ITEM SUMMARY**

Accepts U.S. Department of Housing and Urban Development (HUD) Continuum of Care funds for the fiscal year 2022-2023 budget. Funding will provide housing and services to persons who are experiencing homelessness. Funds are administered by Human and Veteran Services and local non-profit agencies. Approximately 561 persons will be provided information, referrals, housing and supportive services. The total allocation of \$2,012,619 will be expended during fiscal years 2023 and 2024.

**III. BACKGROUND AND IMPLICATIONS OF ACTION****A) Board Action and Other History**

Pursuant to 24 CFR Part 578, and as approved by the Board of County Commissioners at the September 20, 2022 meeting (Agenda Item 11), Lee County submitted an application for HUD Continuum of Care funds on September 30, 2022.

HUD awarded Continuum of Care funds on March 28, 2023, and is in the process of preparing grant agreement for execution with Lee County. Funding will be available upon execution of these agreements.

**B) Policy Issues**

Lee County Administrative Code 3-17 requires Board approval for all grant applications and awards.

**C) BoCC Goals**

Meets requirements for grant funding, which provides for Human Services in Lee County. Funding addresses housing and service needs for persons experiencing homelessness in Lee County, as identified in the Homeless Continuum of Care Strategic Plan.

**D) Analysis**

The Lee County Continuum of Care (CoC) includes local governments, agencies, advocates, and program users who collectively plan and implement programs to serve persons who are homeless and at risk of homelessness in Lee County. The Lee County Homeless Coalition and Lee County Human and Veteran Services coordinate this effort, and the County officially submits an annual grant application for HUD CoC funding as the "Collaborative Applicant." This federal funding provides housing and services for persons who are experiencing homelessness in Lee County, and has been accepted and utilized in Lee County since 1995.

On September 20, 2022, the Board approved Agenda Item #11, which authorized the submission of the 2021 U.S. Department of Housing and Urban Development (HUD) CoC funding application.

HUD announced 2022 CoC awards on March 28, 2023, and budget must be established to commit and expend the awarded funds. This award provides funding for eight (8) projects.

- Five (5) permanent supportive housing projects operated by Community Assisted and Supported Living (CASL),
- One (1) permanent housing project for victims of domestic violence administered by Catholic Charities Diocese of Venice,
- One (1) planning project administered by Human and Veteran Services, and
- One (1) project to facilitate coordinated entry administered/operated by Human & Veteran Services and a community nonprofit agency.

The acceptance of this funding will require the execution of six (6) sub recipient contracts with two (2) nonprofit agencies (sub-recipients) as follows:

- Community Assisted and Supportive Living, Inc: Supportive Services in the amount of \$128,157, to provide case management, other client services and permanent supportive housing minimum of 17 individuals who have been

homeless for long periods and have a severe and persistent mental illness.

- Community Assisted and Supportive Living, Inc: Permanent Supportive Housing in the amount of \$171,458, to provide case management, other client services and permanent supportive housing for 11 individuals who have been homeless for long periods and have a severe and persistent mental illness.
- Community Assisted and Supported Living, Inc: Rental Assistance in the amount of \$199,656, to provide rental subsidies for 27 individuals residing in permanent supportive housing who have been homeless for long periods and have a severe and persistent mental illness.
- Community Assisted and Supported Living, Inc: RTF II Permanent Supportive Housing in the amount of \$688,074, to provide permanent supportive housing in an assisted living format for 16 individuals who have been homeless for long periods and have a severe and persistent mental illness.
- Community Assisted and Supported Living, Inc: Permanent Supportive Housing Scattered Site Rental Assistance in the amount of \$296,143, to provide rental subsidies for 40 individuals residing in permanent supportive housing who have been homeless for long periods and have a severe and persistent mental illness.
- Catholic Charities Diocese of Venice: Domestic Violence Rapid Rehousing in the amount of \$256,726, to provide rental subsidies and supportive services for 30 households who have survived domestic violence.

In addition to funding being contracted with sub-recipients, Lee County Human and Veteran Services will administer the following awards:

- \$165,000, in Support Services–Coordinated Entry funds to support salary and benefit costs for existing Coordinated Entry Coordinator staff and to operate the Coordinated Entry System for Lee County. The Coordinated Entry Coordinator is responsible for ensuring that persons referred through the Coordinated Entry System are prioritized for and connected with housing and services. The Coordinated Entry System, serves as the single point of entry for persons who are experiencing homelessness to access permanent housing resources. Individuals and families experiencing homelessness who contact Coordinated Entry will be assessed and prioritized for housing and services. An estimated 2865 individuals or families experiencing homelessness will be linked to housing and/or services through Southwest Florida Connect
- \$107,405, in CoC planning grant funds to support the salary and benefit costs for CoC management staff that will carry out activities that will increase CoC collaboration and enhance project outcomes.

The total award is \$2,012,619 and requires a 25% match, which is met through sub-recipient cash or in-kind contributions, other grant funds, and County General Funds already being used to support existing staff's salaries.

E) Options

**IV. FINANCIAL INFORMATION**

A)	Current year dollar amount of item:	\$2,012,619
B)	Is this item approved in the current budget?	No
C)	Is this a revenue or expense item?	Revenue
D)	Is this Discretionary or Mandatory?	Discretionary
E)	Will this item impact future budgets? If yes, please include reasons in III(D) above.	No
F)	Fund: Federal Grant through Continuum of Care Program Program: U.S. Housing and Urban Development (HUD) Project: Continuum of Care Account Strings: 11136013829	
G)	Fund Type?	General Fund, Other: 24 CFR Part 578 Continuum of Care Program
H)	Comments:	

**V. RECOMMENDATION**

Approve

**VI. TIMING/IMPLEMENTATION**

HUD announced 2022 CoC awards on March 28, 2023.

The HUD grant agreements will need to be signed by the BOCC Chair upon receipt from HUD.

The sub-recipient contracts have varying effective dates, as noted below. Contracts are prepared using a template approved by Lee County's Risk Management and Attorney's Offices, which includes the specific HUD Agreement for the project and applicable federal requirements. Prior to submission to the Chair for signature, the prepared contract will be signed by the agency, and reviewed for legal sufficiency by the Lee County Attorney's Office and by Risk Management for applicable insurance requirements. Any balance of grant funds remaining at the end of the fiscal year will be carried over to FY 2022-2023.

Effective dates of sub recipient contracts:

- Community Assisted and Supported Living, Inc Rental Assistance - April 1, 2023
- Community Assisted and Supported Living, Inc Permanent Supportive Housing – October 1, 2023
- Community Assisted and Supported Living, Inc Supportive Services - June 1, 2023
- Community Assisted and Supported Living, Inc Permanent Supportive Housing Scattered Site– October 1, 2023
- Community Assisted and Supported Living, Inc RTF II Permanent Supportive Housing– October 1, 2023
- Catholic Charities Diocese of Venice DV Rapid Re-Housing – October 1, 2023

Effective dates of Human and Veteran Services contracts:



- Supportive Services-Coordinated Entry – October 1, 2023
- CoC Planning Grant – June 1, 2023

**VII. FOLLOW UP**

1. The Board Chair will need to sign the following:
  - a. Sub-recipient contracts once prepared, and if necessary, approve any future amendments to the contracts, for this and previous fiscal years, that do not substantially alter the original intent of the contract.
2. Human and Veteran Services staff will administer and oversee CoC projects throughout the program year.

**ATTACHMENTS:**

Description	Upload Date	Type
<a href="#"><u>Budget Resolution Request</u></a>	3/31/2023	Budget Amendment
<a href="#"><u>Budget Amendment</u></a>	4/10/2023	Budget Amendment
<a href="#"><u>041823R-C-12-RESO 23-04-22 Budget Amendment</u></a>	4/20/2023	Resolution

**REVIEWERS:**

Department	Reviewer	Action	Date
Human and Veteran Services	Isley, Rae	Approved	4/10/2023 - 10:29 AM
Human and Veteran Services	Mercado, Roger	Approved	4/10/2023 - 11:10 AM
Budget Services	Henkel, Anne	Approved	4/10/2023 - 12:22 PM
Budget Services	Winton, Peter	Approved	4/10/2023 - 2:22 PM
County Attorney	Fraser, Andrea	Approved	4/10/2023 - 2:42 PM
County Manager	Mora, Marc	Approved	4/10/2023 - 5:05 PM