



CONTINUUM OF CARE PROGRAM

PERMANENT SUPPORTIVE HOUSING GUIDEBOOK

Effective October 1, 2017

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I. BACKGROUND

Under the Stewart B. McKinney Homeless Assistance Act, in 1996, the Orange County Housing Authority (OCHA) and the Orange County Health Care Agency (HCA) established a partnership to compete in the U.S Department of Housing and Urban Development's annual SuperNOFA competition for funds to implement the Shelter Plus Care Program. Shelter Plus Care Program linked rental assistance with supportive services for hard-to-serve homeless persons with disabilities.

As a result of the aforementioned, OCHA was awarded its initial funding for Shelter Plus Care Program in 1997 and implemented the program the same year. Over the course of the following 16 years, OCHA, HCA, and subsequently additional supportive services partners successfully administered Shelter Plus Care Program in compliance with U.S. Department of Housing and Urban Development (HUD) requirements and consistently exceeded HUD's performance expectations.

In 2009, the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act, was enacted amending the McKinney-Vento Homeless Assistance Act (formerly referred to as the Stewart B. McKinney Homeless Assistance Act) to:

1. Promote countywide commitment to the goal of ending homelessness
2. Provide funding for efforts by nonprofit providers, States, and local governments to quickly rehouse the homeless, while minimizing the trauma and dislocation caused by homelessness
3. Promote access to and effective utilization of mainstream programs by homeless
4. Optimize self-sufficiency among those experiencing homelessness.

The HEARTH Act consolidated the three separate McKinney-Vento Homeless Assistance Act programs, including the Supportive Housing Program, Shelter Plus Care Program, and Section 8 Moderate Rehabilitation Single Room Occupancy Program into a single grant program known as the Continuum of Care (CoC) Program.

In response to the aforementioned amendment, in 2012, HUD published the Continuum of Care (CoC) Program Interim Rule establishing the "Continuum of Care Program". Via the annual Continuum of Care Program competition, the CoC Program awards funds to eligible organizations to provide housing and/or services to assist the homeless with the ultimate goal of long-term stability.

Shelter Plus Care Program projects that received renewal funding under a Continuum of Care Program competition are now referred to as Continuum of Care Program Permanent Supportive Housing (PSH) projects.

II. PURPOSE

The purpose of this guidebook is to document OCHA's administration of its CoC Program PSH projects.

III. REGULATORY EXCERPTS¹

¹ Because Chapter 24 Part 578 of the Code of Federal Regulations (CFR) governs the entire body of the Continuum of Care and multiple project "component" types, only applicable excerpts of regulations, which may direct OCHA's administration of its CoC Program PSH projects have been included in this document. The entirety of 24 CFR Part 578 can be found at <https://www.gpo.gov/fdsys/granule/CFR-2016-title24-vol3/CFR-2016-title24-vol3-part578>. In any instance of contradiction among regulation and policy, regulation supersedes policy.

§ 578.1 Purpose

(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).

§ 578.3 Definitions

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.

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.

Emergency shelter is defined in 24 CFR part 576.

Fair Market Rent (FMR) means the Fair Market Rents published in the FEDERAL REGISTER annually 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);

(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 or 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.

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

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.

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.

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.

§ 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.

§ 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

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- (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.
- (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).
 - (10) To follow the written standards for providing Continuum of Care assistance developed by the
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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.

§ 578.27 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.

(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.

§ 578.31 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.

(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.

§ 578.37 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.

(b) *Uses of assistance.* Funds are available to pay for the eligible costs listed in § 578.39 through § 578.63 when used to:

(6) Continue funding permanent housing when the recipient has received funding under this part for leasing, supportive services, operating costs, or rental assistance;

§ 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.

§ 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.

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- (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
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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.

§ 578.57 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;

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- (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.
- (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;

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- (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.

§ 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.
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§ 578.75 General operations

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.

(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.

§ 578.85 Timeliness standards

(a) *In general.* Recipients must initiate approved activities and projects promptly.

(c) *Distribution.* A recipient that receives funds through this part must:

(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.

§ 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 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.

(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).

(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.

§ 578.99 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.frs.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.

§ 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.

(3) *Homeless status*. Acceptable evidence of the homeless as status is set forth in 24 CFR 576.500(b).

(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).

(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:

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- (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

- (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.

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- (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;
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- (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.

IV. OCHA POLICY

A Referral to CoC PSH Projects

In compliance with 24 CFR 578.23 and Notice CPD-16-11, homeless households potentially eligible to assistance are identified and prioritized by the CoC's CES.

As required by 24 CFR Part 578.23, as funding permits, OCHA requests and receives referrals for applicant households for its CoC Program PSH projects via the CoC's CES.

The CoC's CES policy documents are appended to this Guidebook as Exhibits 1 - 5 and as such, said policies are thereby incorporated herein.

B Initial Eligibility

Referrals from the CoC CES include certifications of chronic homelessness and disability from qualified professionals, which are required in order to establish initial eligibility to assistance.

OCHA and its supportive services partners act in accordance with the *"housing first"* model to quickly and successfully connect those experiencing homelessness with PSH without preconditions and/or barriers to entry. However, eligibility is contingent upon OCHA's ability to verify identity of all members of the household, and that the household's income does not exceed "50% of the median family income for the area" (24 CFR part 5).

In accordance with 24 CFR 5.856, any member of a household subject to a lifetime registration requirement under a State sex offender registration program is prohibited admission to federally assisted housing.

Upon OCHA's certification of a household's eligibility to assistance, the household may locate a potential rental unit.

C Admission to CoC PSH Projects

Once an eligible household has located an OCHA-approved rental unit, the household will be admitted to a CoC PSH project.

D Documentation of Supportive Services Match

At close of a CoC PSH project operating year, OCHA will request from its supportive services partner verification of overall match, which is valued and documented as

articulated in 24 CFR 578.23, 578.73 and 578.103.

OCHA will randomly select recipients of supportive services and perform quality assurance of their individual match documentation.

Documentation of overall match and match provided to randomly selected recipients will be recorded in OCHA's administrative records.

E Grant and Project Amendments

In the event OCHA requires an amendment of a grant agreement and/or project, OCHA will request HUD approval via e-snaps and will confirm such request by sending written notice to the local HUD field office.

V. ABSENCE OF REGULATION AND POLICY

In the absence of regulation in Chapter 24 of the Code of Federal Regulations, and OCHA policy in this Guidebook, OCHA will operate its CoC PSH projects as it does the Housing Choice Voucher Program, as documented in its Administrative Plan, which is located at www.ochousing.org.

VI. REVISION OF GUIDEBOOK

As determined necessary by HUD, OCHA, and/or the CoC, OCHA will publish updates to this Guidebook at www.ochousing.org

VII. EXHIBITS

Orange County Continuum of Care

Policy #: CE-CA602-15-005

Policy: Access/Barriers Policy

Effective Date: July 1, 2015

Date Reviewed/Revised:

Approved by the Commission to End Homelessness on: July 31, 2015

Background

Housing First is an approach in which housing is offered to people experiencing homelessness without preconditions (such as sobriety, mental health treatment, or a minimum income threshold) or service participation requirements and in which rapid placement and stabilization in permanent housing are primary goals. Permanent Supportive Housing (PSH) projects that use a Housing First approach promote the acceptance of applicants regardless of their sobriety or use of substances, completion of treatment, or participation in services. United States Department of Housing and Urban Development (HUD) encourages all recipients of Continuum of Care (CoC) Program-funded PSH to follow a Housing First approach to the maximum extent practicable. Any recipient that indicated that they would follow a Housing First approach in the Fiscal Year (FY) 2013 CoC Project Application must do so for both the FY 2013 and FY 2014 operating year(s), as the CoC score for the FY 2013–FY 2014 CoC Program Competition was affected by the extent in which project applications indicated that they would follow this approach and this requirement will be incorporated into the recipient’s FY 2013 and FY 2014 grant agreement.

Applicability

At minimum all CoC- funded Permanent Supportive Housing (PSH), Rapid Rehousing (RRH), Emergency Shelter (ES) and Transitional Housing (TH) programs will maintain marketing and tenant selection policies and procedures that have explicit preferences and prioritization for households that meet the criteria established below.

Definition

Housing First is an approach that centers on providing homeless people with housing quickly and then providing services as needed. What differentiates a Housing First approach from other strategies is that there is an immediate and primary focus on helping individuals and families quickly access and sustain permanent housing. This approach has the benefit of

being consistent with what most people experiencing homelessness want and seek help to achieve. Housing First programs share critical elements:

- There is a focus on helping individuals and families access and sustain rental housing *as quickly as possible*;
- A variety of services are delivered primarily following a housing placement to promote housing stability and individual well-being;
- Such services are time-limited or long-term depending upon individual need; and
- Housing is not contingent on compliance with services – instead, participants must comply with a lease agreement and are provided with the services and supports that are necessary to help them do so successfully.

Policy

The Orange County Continuum of Care requires agencies and programs alike to have the following core elements incorporated in all program types:

- Admission/tenant screening and selection practices promote the acceptance of applicants regardless of their sobriety or use of substances, completion of treatment, and participation in services.
- Applicants may not be rejected by agencies on the basis of poor credit or financial history, poor or lack of rental housing, minor criminal convictions, or behaviors that indicate lack of “housing readiness.”
- Housing accepts referrals directly from shelters, street outreach, drop-in centers, and other parts of crisis response systems that are integrated into Coordinated Entry, and are frequented by vulnerable people experiencing homelessness.
- Supportive services emphasize engagement and problem-solving over therapeutic goals. Services plans are highly tenant-driven without predetermined goals. Participation in services or program compliance is not a condition of permanent supportive housing. Rapid Re-Housing programs may require case management as condition of receiving rental assistance.
- Use of alcohol or drugs in and of itself (without other lease violations) is not considered reason for eviction by the Agency. Agencies may adopt a “no use or consumption” on property rule.

Orange County Continuum of Care

Policy #: CE-CA602-15-004

Policy: Admission and Refusal Policy

Effective Date: July 1, 2015

Date Reviewed/Revised:

Approved by the Commission to End Homelessness on: July 31, 2015

Background

Housing First housing models are typically designed for individuals or families who have complex service needs, who are often turned away from other affordable housing settings, and/or who are least likely to be able to proactively seek and obtain housing on their own. Housing First approaches include Permanent Supportive Housing (PSH) and Rapid Rehousing (RRH) programs. The approach has also evolved to encompass a community-level orientation to ending homelessness in which barriers to housing entry are removed and efforts are in place to prioritize the most vulnerable and high-need people for housing assistance.

Applicability

At minimum all Continuum of Care (CoC) –funded and ESG funded Permanent Supportive Housing (PSH), Rapid Rehousing (RRH), and Emergency Shelter (ES), and Transitional Housing (TH) program providers will abide by the admission and refusal policy.

Client Refusal

A client that has been assessed (using the VI SPDAT) and found to be eligible for housing in Orange County's Continuum of Care may refuse housing up to two times without any repercussions or changes to the status of their prioritization. See below for more detailed information.

The Orange County Continuum of Care believes strongly in honoring the voice and choice of individuals and families in selecting housing opportunities. However, the housing stock in Orange County is not suited to be able to offer every individual and family their ideal program. In an effort to allow individuals and families to have some say in their choices, individuals and families are given the option to turn down a resource due to limited reasons while not affecting their eligibility for future referrals and placement on the prioritization list.

Individual or family may turn down a resource for the following reasons without affecting their eligibility for future referrals:

- Individual or family can refuse up to two resources (at any stage). Upon a second refusal, the individual or family is removed from the prioritization placement roster. Individual or family can refuse shelter or housing for geographic reasons two times, but must update their preferences. The coordinated entry process will continue to honor individuals and families' specified geographic preference and unsafe areas.
- Individuals and families' can refuse shelter or housing due to a prior negative experience with a specific program/agency. Designated staff will not offer housing through that program/agency in the future.

Procedure for Refusal Policy

Refusals are entered in the Coordinated Entry (CE) module and client refusal is documented. Once the individual or family's refusal has reached the maximum amount allotted.

- If an individual or family uses their first refusal, designated staff will make note in database. Designated staff will also mark Refusal 1 in database detailing why refusal was made. Designated staff will also update any relevant information influenced as a result of refusal.
- If an individual or family uses their second refusal, designated staff will explain consequences to family, update necessary information in database, mark individual or family as Ineligible (with description) , and send individual or family's identifier to appropriate staff or supervisor.

Agency Refusal

An agency that is part of the Orange County Continuum of Care may deny a referral (refuse to admit a client) from Coordinated Entry under any one of the following circumstances:

- Inappropriate referral from CE intake:
 - Non-VA client is sent to a VA provider
 - ADA client is sent to a non-accommodating ADA facility
 - DV client being sent to a non DV agency
- There is new information related to the individual or family's eligibility discovered at intake that fails to meet agency's stated eligibility criteria in their approved program inventory.
- If the individual or family has a change in circumstances that fails to meet the agency's stated eligibility criteria in their approved program inventory.
- If the individual or family is an incorrect referral based on the eligibility criteria on the agency's program.
- If the individual or family is an incorrect referral based on agency funding requirements.

Systemic refusal or refusals without justification could have potential consequences affecting CoC HUD funding.

Admission Refusal Process

If an agency is denying a referral from Coordinated Entry, the process below must be followed:

1. Agency's designated staff must review all proposed denials before contacting CE referral source.
2. Agency's designated staff will contact the CE referral source to discuss the admission refusal. If the admission refusal is related to eligibility criteria outlined in the program inventory the CE referral source will confirm which referral outcome should be inputted into HMIS.
3. Agency's designated staff will update the outcome into HMIS by the end of the same business day. The agency's intake coordinator will not input an outcome until the previous step is completed.
4. CE referral source will contact next eligible individual or family in prioritization list and refer to agency with opening.
5. Reason for the denial must be documented in CE module.

Contested Denial Review

CE may contest a denial. If after the phone call between the provider and CE referral source there is not agreement on the resolution, the following process shall occur:

- Coordinate a review process with the Refusal Panel.
- The review process will occur via conference call or an in-person meeting and will include a representative from the provider agency, a representative from CE referral source and minimum of three members.
- During this process, the individual or family will be given the option of waiting until the issue has been resolved or taking the next available referral for which they are eligible.
- The unit in question will remain "on hold" and no further referrals will be sent to the program until the completion of the review process.
- If the denial is found valid, CE referral source will send a new eligible referral to the agency. If the panel determines the denial is invalid, CE will discuss with the agency.

Orange County Continuum of Care

Policy #: CA-602-17-001

Policy: Prioritization for Permanent Supportive Housing (PSH) Opportunities

Effective Date: July 13, 2017

Date Reviewed/Revised:

Approved by the Commission to End Homelessness on: July 13, 2017

Preference of Prioritization

To increase Coordinated Entry System flow, maximize limited housing opportunities, and decrease wait times for housing opportunities, those people coming from designated CES access points residing in emergency shelter situations will receive preference for prioritization. The prioritization factors will remain the same as designated in the already established CES policy and procedures.

Orange County Continuum of Care

Policy #: CE-CA602-15-001

Policy: Prioritization for Permanent Supportive Housing (PSH) Opportunities

Effective Date: July1, 2015

Date Reviewed/Revised:

Approved by the Commission to End Homelessness on: July 31, 2015

Background

The Orange County Continuum of Care, in accordance with guidance from the United States Department of Housing and Urban Development (HUD) Office of Community Planning *Development Notice on Prioritizing Persons Experiencing Chronic Homelessness and Other Vulnerable Homeless Persons in Permanent Supportive Housing and Recordkeeping Requirements for Documenting Chronic Homeless Status* (CPD-14-012) maintains the following priority preference groups for access to Permanent Supportive Housing (PSH) opportunities within Orange County. In doing so Orange County will be able to:

1. Establish an order of priority for dedicated and prioritized PSH beds in order to ensure that those persons with the most severe service needs are given first priority.
2. Inform the selection process for PSH assistance not dedicated or prioritized for chronic homelessness to prioritize persons who do not yet meet the definition of chronic homelessness but are most at risk of becoming chronically homeless.
3. Provide uniform recordkeeping requirements for all recipients of CoC Program funded PSH for documenting chronically homeless status of program participants when required to do so as well as provide guidance on recommended documentation standards.

Applicability

At minimum all Continuum of Care (CoC) and Emergency Solutions Grant (ESG) funded PSH providers will prioritize all PSH turnover units for chronically homeless people and allow existing PSH tenants to "move up" to Housing Choice Vouchers programs.

At minimum all CoC-funded PSH programs will maintain marketing and tenant selection policies and procedures that have explicit preferences and prioritization for individuals and families that meet the criteria established below. The CoC will promote the utilization of this prioritization among non-CoC funded PSH and document the use of this approach among other PSH in the County.

Definition

Orange County PSH shall give preference to household that meet the following general criteria:

- **The household meets the HUD CoC definition for *chronically homeless* or the household met the criteria for the definition prior to entering a government funded transitional housing program.**

The definition of “chronically homeless” currently in effect for the CoC Program is that which is defined in the CoC Program interim rule at 24 CFR 578.3, which states that a chronically homeless person is:

- a. 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;
- b. 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 [as described in Section I.D.2.(a) of CPD-14-012], before entering that facility; or
- c. 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 [as described in Section I.D.2. (a) of CPD-14-012], including a family whose composition has fluctuated while the head of household has been homeless.

Severity of Service Needs.

Notice CPD-14-012 refers to persons who have been identified as having the most severe service needs.

- a. For the purposes of Notice CPD-14-012, this means an individual for whom at least one of the following is true:
 - i. History of high utilization of crisis services, which include but are not limited to, emergency rooms, jails, and psychiatric facilities; or
 - ii. Significant health or behavioral health challenges or functional impairments which require a significant level of support in order to maintain permanent housing.

Orange County CoC will identify and verify service needs as defined in paragraphs i and ii through a standardized assessment tool, VI-SPDAT (and any other VI SPDATS that become available to our CoC through our HMIS Collaborative) to determine severity of needs and prioritization. In the event that two or more individuals receive the same score from the standardized assessment tool, individuals will be prioritized utilizing the established priority by the CPD-14-012.

**Prioritization Policy
HUD Notice CPD 14-012**

Order of Priority in CoC Program-funded Permanent Supportive Housing

Order of Priority in CoC Program-funded Permanent Supportive Housing Beds Dedicated to Persons Experiencing Chronic Homelessness and Permanent Supportive Housing Prioritized for Occupancy by Persons Experiencing Chronic Homelessness

- a. **First Priority–Chronically Homeless Individuals and Families with the Longest History of Homelessness and with the Most Severe Service Needs.** A chronically homeless individual or head of household as defined in 24 CFR 578.3 for whom both of the following are true:
 - i. The chronically homeless individual or head of household of a family has been homeless and living in a place not meant for human habitation, a safe haven, or in an emergency shelter for at least 12 months either continuously or on at least four separate occasions in the last 3 years, where the cumulative total length of the four occasions equals at least 12 months; and
 - ii. The CoC identified the chronically homeless individual or head of household, who meets all of the criteria in paragraph (1) of the definition for chronically homeless, of the family as having severe service needs (see Section I.D.3. of CPD-14-012 for definition of severe service needs).

- b. **Second Priority–Chronically Homeless Individuals and Families with the Longest History of Homelessness.** A chronically homeless individual or head of household, as defined in 24 CFR 578.3, for which both of the following are true:
 - i. The chronically homeless individual or head of household of a family has been homeless and living in a place not meant for human habitation, a safe haven, or in an emergency shelter for at least 12 months either continuously or on at least four separate occasions in the last 3 years, where the cumulative total length of the four occasions equals at least 12 months; and,

- ii. The CoC has not identified the chronically homeless individual or the head of household, who meets all of the criteria in paragraph (1) of the definition for chronically homeless, of the family as having severe service needs.
- c. **Third Priority–Chronically Homeless Individuals and Families with the Most Severe Service Needs.** A chronically homeless individual or head of household as defined in 24 CFR 578.3 for whom both of the following are true:
 - i. The chronically homeless individual or head of household of a family has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter on at least four separate occasions in the last 3 years, where the total length of those separate occasions equals less than one year; and
 - ii. The CoC or CoC program recipient has identified the chronically homeless individual or the head of household, who meets all of the criteria in paragraph (1) of the definition for chronically homeless, of the family as having severe service needs.
- d. **Fourth Priority–All Other Chronically Homeless Individuals and Families.** A chronically homeless individual or head of household as defined in 24 CFR 578.3 for whom both of the following are true:
 - i. The chronically homeless individual or head of household of a family has been homeless and living in a place not meant for human habitation, a safe haven, or in an emergency shelter for at least 12 months either continuously or on at least four separate occasions in the last 3 years, where the cumulative total length the four occasions is less than 12 months; and
 - ii. The CoC or CoC program recipient has not identified the chronically homeless individual or the head of household, who meets all of the criteria in paragraph (1) of the definition for chronically homeless, of the family as having severe service needs.

Order of Priority in Permanent Supportive Housing Beds Not Dedicated or Prioritized for Persons Experiencing Chronic Homelessness

1. As of the date of this Notice, CoCs are encouraged to revise their written standards to include the following priorities for non-dedicated and non-prioritized PSH beds. If adopted into the CoCs written standards, recipients of CoC Program-funded PSH would then be required to follow the order of priority when selecting participants for housing in accordance with the CoC’s revised written standards included in this Notice and in a manner consistent with their current grant agreement. CoCs that adopt this order of priority are encouraged to include in the written standards a policy that would allow for recipients of non-dedicated and non-prioritized PSH to offer housing to chronically homeless individuals and families first, but minimally would be required to place otherwise eligible households in an order that prioritizes,

in a nondiscriminatory manner, those who would benefit the most from this type of housing, beginning with those most at risk of becoming chronically homeless. For eligibility in non-dedicated and non-prioritized PSH serving non-chronically homeless households, any household member with a disability may qualify the family for PSH.

a. **First Priority–Homeless Individuals and Families with a Disability with the Most Severe Service Needs.**

An individual or family that is eligible for CoC Program-funded PSH who has been living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter for any period of time, including persons exiting an institution where they have resided for 90 days or less but were living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter immediately prior to entering the institution **and** has been identified as having the most severe service needs.

b. **Second Priority–Homeless Individuals and Families with a Disability with a Long Period of Continuous or Episodic Homelessness.**

An individual or family that is eligible for CoC Program-funded PSH who has been living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least 6 months or on at least three separate occasions in the last 3 years where the cumulative total is at least 6 months. This includes persons exiting an institution where they have resided for 90 days or less but were living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter immediately prior to entering the institution and had been living or residing in one of those locations for at least 6 months or on at least three separate occasions in the last 3 years where the cumulative total is at least 6 months.

c. **Third Priority–Homeless Individuals and Families with Disability Coming from Places Not Meant for Human Habitation, Safe Havens, or Emergency Shelters.**

An individual or family that is eligible for CoC Program-funded PSH who has been living in a place not meant for human habitation, a safe haven, or an emergency shelter. This includes persons exiting an institution where they have resided for 90 days or less but were living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter immediately prior to entering the institution.

d. **Fourth Priority–Homeless Individuals and Families with a Disability Coming from Transitional Housing.**

An individual or family that is eligible for CoC Program-funded PSH who is coming from transitional housing, where prior to residing in the transitional housing lived on streets or in an emergency shelter, or safe haven. This priority also includes homeless individuals and homeless households with children with a qualifying disability who were fleeing or attempting to flee domestic violence, dating violence, sexual assault, or stalking and are living in

transitional housing—all are eligible for PSH even if they did not live on the streets, emergency shelters, or safe havens prior to entry in the transitional housing.

Nondiscrimination Requirements

CoCs and recipients of CoC Program-funded PSH must continue to comply with the nondiscrimination provisions of Federal civil rights laws, including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act, and Titles II or III of the Americans with Disabilities Act, as applicable.

Recordkeeping Requirements

This Notice establishes recordkeeping requirements for all recipients of CoC Program-funded PSH that are required to document a program participant's status as chronically homeless as defined in 24 CFR 578.3 and in accordance with 24 CFR 578.103. Further, HUD expects that where CoCs have adopted the orders of priority in Section III. of this Notice into their written standards, the CoC as well as recipients of CoC Program-funded PSH, will maintain evidence of implementing these priorities.

A. CoC Records

In addition to the records required in 24 CFR 578.103, it is recommended that the CoC should supplement such records with the following:

1. **Evidence of written standards that incorporate the priorities in Section III. of this Notice, as adopted by the CoC.** A CoC adopting the priorities in Section III of this Notice, may be evidenced by written CoC, or subcommittee, meeting minutes where written standards were adopted that incorporate the prioritization standards in this Notice, or an updated, approved, governance charter where the written standards have been updated to incorporate the prioritization standards set forth in this Notice.
2. **Evidence of a standardized assessment tool.** Use of a standardized assessment tool may be evidenced by written policies and procedures referencing a single standardized assessment tool that is used by all CoC Program-funded PSH recipients within the CoC's geographic area.
3. **Evidence that the written standards were incorporated into the coordinated assessment policies and procedures.** Incorporating standards into the coordinated assessment policies and procedures may be evidenced by updated policies and procedures—that incorporate the updated written standards for CoC Program-funded PSH developed and approved by the CoC.

B. Recipient Recordkeeping Requirements

In addition to the records required in 24 CFR 578.103, recipients of CoC Program-funded PSH that is required by grant agreement to document chronically homeless status of program participants in some or all of its PSH beds must maintain the following records:

1. **Written Intake Procedures.** Recipients must maintain and follow written intake procedures to ensure compliance with the definition of chronically homeless per 24 CFR 578.3. These procedures must establish the order of priority for obtaining evidence as: (1) third-party documentation, (2) intake worker observations, and (3) certification from the person seeking assistance. Records contained in an HMIS or comparable database used by victim service or legal service providers are acceptable evidence of third-party documentation and intake worker observations if the HMIS retains an auditable history of all entries, including the person who entered the data, the date of entry, and the change made; and if the HMIS prevents overrides or changes of the dates entries are made.
2. **Evidence of Chronically Homeless Status.** Recipients of CoC Program-funded PSH whose current grant agreement includes beds that are dedicated or prioritized to the chronically homeless must maintain records evidencing that the individuals or families receiving the assistance in those beds meets the definition for chronically homeless at 24 CFR 578.3. Such records must include evidence of the homeless status of the individual or family (paragraphs (1)(i) and (1)(ii) of the definition), the duration of homelessness (paragraph (1)(ii) of the definition), and the disabling condition (paragraph (1)(iii) of the definition). When applicable, recipients must also keep records demonstrating compliance with paragraphs (2) and (3) of the definition.
 - a. **Evidence of homeless status.** Evidence of an individual or head of household's current living situation may be documented by a written observation by an outreach worker, a written referral by housing or service provider, or a certification by the household seeking assistance that demonstrates that the individual or head of household is currently homeless and living in a place not meant for human habitation, in an emergency shelter, or a safe haven. For paragraph (2) of the definition for chronically homeless at 24 CFR 578.3, for individuals currently residing in an institution, acceptable evidence includes:
 - i. Discharge paperwork or a written or oral referral from a social worker, case manager, or other appropriate official of the institution, stating the beginning and end dates of the time residing in the institution that demonstrate the person resided there for less than 90 days. All oral statements must be recorded by the intake worker; or
 - ii. Where the evidence above is not obtainable, a written record of the intake worker's due diligence in attempting to obtain the evidence described in the paragraph i. above and a certification by the individual seeking assistance that states that they are exiting or have just exited an institution where they resided for less than 90 days; and

- iii. Evidence that the individual was homeless and living in a place not meant for human habitation, a safe haven, or in an emergency shelter, and met the criteria in paragraph (1) of the definition for chronically homeless in 24 CFR 578.3, immediately prior to entry into the institutional care facility.
- b. **Evidence of the duration of the homelessness.** Recipients documenting chronically homeless status must also maintain the evidence described in paragraph i. or in paragraph ii. below, and the evidence described in paragraph iii. below:

- i. **Evidence that the homeless occasion was continuous, for at least one year.**

Using any combination of allowable documentation described in Section V.B.2.(a) of this Notice, recipients must provide evidence that the homeless occasion was continuous, for a year period, without a break in living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter. For the purposes of this Notice, a break is considered at least seven or more consecutive nights not residing in a place not meant for human habitation, in shelter, or in a safe haven.

At least nine months of the one-year period must be documented by one of the following: (1) HMIS data, (2), a written referral, or (3) a written observation by an outreach worker. In only rare and the most extreme cases, HUD would allow a certification from the individual or head of household seeking assistance in place of third-party documentation for up to the entire period of homelessness. Where third-party evidence could not be obtained, the intake worker must obtain a certification from the individual or head of household seeking assistance, and evidence of the efforts made to obtain third-party evidence as well as documentation of the severity of the situation in which the individual or head of household has been living. An example of where this might occur is where an individual has been homeless and living in a place not meant for human habitation in a secluded area for more than one year and has not had any contact with anyone during that entire period.

Note: A single encounter with a homeless service provider on a single day within one month that is documented through third-party documentation is sufficient to consider an individual or family as homeless for the entire month unless there is any evidence that the household has had a break in homeless status during that month (e.g., evidence in HMIS of a stay in transitional housing).

ii. **Evidence that the household experienced at least four separate homeless occasions over 3 years.**

Using any combination of allowable documentation described in Section V.B.2.(a) of this Notice, the recipient must provide evidence that the head of household experienced at least four, separate, occasions of homelessness in the past 3 years.

Generally, at least three occasions must be documented by either: (1) HMIS data, (2) a written referral, or (3) a written observation. Any other occasion may be documented by a self-certification with no other supporting documentation.

In only rare and the most extreme cases, HUD will permit a certification from the individual or head of household seeking assistance in place of third-party documentation for the three occasions that must be documented by either: (1) HMIS data, (2) a written referral, or (3) a written observation. Where third-party evidence could not be obtained, the intake worker must obtain a certification from the individual or head of household seeking assistance, and must document efforts made to obtain third-party evidence, and document of the severity of the situation in which the individual has been living. An example of where this might occur is where an individual has been homeless and living in a place not meant for human habitation in a secluded area for more than one occasion of homelessness and has not had any contact with anyone during that period.

iii. **Evidence of diagnosis 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.** Evidence of this criterion must include one of the following:

1. Written verification of the condition from a professional licensed by the state to diagnose and treat the condition;
2. Written verification from the Social Security Administration;
3. Copies of a disability check (e.g., Social Security Disability Insurance check or Veterans Disability Compensation);
4. Intake staff (or referral staff) observation that is confirmed by written verification of the condition from a professional licensed by the state to diagnose and treat the condition that is confirmed no later than 45 days of the application for assistance and accompanied with one of the types of evidence above; or

5. Other documentation approved by HUD.

C. Recordkeeping Recommendations for CoCs that have Adopted the Order of Priority in this Notice. Where CoCs have incorporated the order of priority in this Notice into their written standards, recipients of CoC Program-funded PSH may demonstrate that they are following the CoC-established requirement by maintaining the following evidence:

1. **Evidence of Cumulative Length of Occasions.** For recipients providing assistance to households using the selection priority in Sections III.A.1.(a) and (b) of this Notice, the recipient must maintain the evidence of each occasion of homelessness as required in Section V.B.2.(b)(2) of this Notice, which establishes how evidence of each occasion of homelessness, when determining whether an individual or family is chronically homeless, may be documented. However, to properly document the length of time homeless, it is important to document the start and end date of each occasion of homelessness and these occasions must cumulatively total a period of 12-months. In order to properly document the cumulative period of time homeless, at least 9 months of the 12-month period must be documented through third-party documentation unless it is one of the rare and extreme cases described in Section V.B.2.b.ii. of this Notice. For purposes of this selection priority, a single encounter with a homeless service provider on a single day within one month that is documented through third-party documentation is sufficient to consider an individual or family as homeless for the entire month unless there is any evidence that the household has had a break in homeless status during that month (e.g., evidence in HMIS of a stay in transitional housing).
2. **Evidence of Severe Service Needs.** Evidence of severe service needs is that by which the recipient is able to determine the severity of needs as defined in Section I.D.3. of this Notice using data-driven methods such as an administrative data match or through the use of a standardized assessment conducted by a qualified professional.
3. **Evidence that the Recipient is Following the CoC's Written Standards for Prioritizing Assistance.** Recipients must follow the CoC's written standards for prioritizing assistance, as adopted by the CoC. In accordance with the CoC's adoption of written standards for prioritizing assistance, recipients must in turn document that the CoC's revised written standards have been incorporated into the recipient's intake procedures and that the recipient is following its intake procedures when accepting new program participants into the project.

Written Standards for Permanent Supportive Housing

A. Background information

In regards to rapid rehousing, § 578.7 Responsibilities of the Continuum of Care (a) (9) of the HEARTH Act Interim Rule notes that

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:

- Policies and procedures for evaluating individuals' and families' eligibility for assistance under this part;
- Policies and procedures for determining and prioritizing which eligible individuals and families will receive permanent supportive housing assistance.

Permanent supportive housing is considered permanent housing. 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."

HUD also states

"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."

B. Eligible clients

As stated in the 2014 CoC NOFA under *Beds Dedicated to the Chronically Homeless*

"The total number of permanent supportive housing beds in the CoC's geographic area that are dedicated specifically for use by the chronically homeless, per 24 CFR 578.3, as reported in the CoC's Housing Inventory Count (HIC). For permanent supportive housing beds, when a participant exits the program, the bed must be filled by another chronically homeless participant unless there are no chronically homeless persons located within the CoC's geographic area. This concept only applies to permanent supportive housing projects. (see p. 18)"

Also stated in the 2014 CoC NOFA under *Non-Dedicated Permanent Supportive Housing Beds*

"Permanent supportive housing beds within a CoC's geographic area that are not currently dedicated specifically for use by the chronically homeless. CoCs and projects are strongly encouraged to prioritize the chronically homeless in non-dedicated permanent supportive housing beds as they become available through turnover. This concept only pertains to permanent supportive housing projects (see p. 19)."

Eligible clients must also meet eligibility criteria as defined in the NOFA under which the program was funded.

C. Written Standards

Written Standard #1: No Designated Length of Stay

- **Program participants are provided housing without a designated length of stay that permits them to live as independently as possible.**

In Program Components and Eligible Costs (Subpart D) of the Preamble of the HEARTH Act (see p. 25) the following is noted:

“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.”

Written Standard #2: Lease Agreement

- **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.**

On page 12 of the Preamble of the HEARTH Act Interim Rule,

“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.”

Also, § 578.77 Calculating occupancy charges and rent (a) states the following about occupancy agreements:

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

Written Standard #3: Restricted Assistance and Disabilities

- **Permanent supportive housing can only provide assistance to individuals with disabilities and families in which one adult or child has a disability.**

§ 578.37 Program components and uses of assistance (a) (1) (i) states that

“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.”

Written Standard #4: Supportive Services

- **Supportive services designed to meet the needs of program participants must be made available to the program participants.**

§ 578.37 Program components and uses of assistance (a) (1) (i) states that

“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.*”

Written Standard #5: Duration of Supportive Services Assistance

- **Supportive services to enable program participants to live as independently as possible must be provided throughout the duration of their residence**

§ 578.53 Supportive services (b) (2) states that

“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.”

Written Standard #6: One Person per Bedroom

- **In shared housing PSH programs, each individual in the housing unit must have their own bedroom and lease unless it is a family unit (2 persons) then only one lease and bedroom is required.**

Information received from HUD Exchange on February 9, 2015 is as follows:

“Under the CoC Program, all housing that is 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.

HQS dictates that, at a minimum, the unit must have a living room, a kitchen, and a bathroom. HQS requirements also dictates that the bathroom must be contained within the unit, afford privacy (usually meaning a door, although no lock is required), and be for the exclusive use of the occupants. Additionally, the unit must have suitable space and equipment to store, prepare, and serve food in a sanitary manner. This includes a requirement for an oven and stove or range, a refrigerator of appropriate size for the family, and a kitchen sink with hot and cold running water. Hot plates are not acceptable substitutes for stoves or ranges. However, a microwave oven may be used in place of a conventional oven, stove, or range if the oven/stove/range are tenant supplied or if microwaves are furnished in both subsidized and unsubsidized units in the building or premises.

The CoC Program also allows for shared housing/roommate situations in projects with leasing or rental assistance funds. Each household must have the bedroom size that fits their household size. In other words, 2 individuals in a shared housing situation must have their own lease, and their own bedroom. The only situation where 2 people would be sharing one bedroom would be if they presented together as a household.

For more information about Housing Quality Standards, please refer to Chapter 10 of the HCVP Guidebook: www.hud.gov/offices/adm/hudclips/guidebooks/7420.10G/7420g10GUID.pdf.”

Written Standard #7: Program Income

- Program income generated from rent and occupancy charges may be collected from program participants and added to funds committed to the project by HUD and used for eligible program activities

§ 578.97 Program income includes the following:

“(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.”

Also, § 578.49 Leasing (b) (7) states the following about program income

“Program income. Occupancy charges and rent collected from program participants are program income and may be used as provided under § 578.97.”

Written Standard #8: Calculating Occupancy Charges and Rent

- **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.**

§ 578.77 Calculating occupancy charges and rent (b) (1) (2) (3) notes the following about occupancy agreements

“(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.”

Written Standard #9: Examining Program Participant’s Initial Income

- **A program participant’s initial income must be examined at initial entry and at least once annually thereafter, to determine the amount of the contribution toward rent payable by the program participant and adjustments to a program participant’s contribution toward the rental payment must be made as changes in income are identified.**

§578.77 Calculating occupancy charges and rent (c)(2) states that

“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.”

§578.103 Recordkeeping requirements (7) (i) (ii) states that 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.”

Written Standard #10: Verifying Program Participant’s Initial Income

- **Each program participant must agree to supply the information or documentation necessary to verify the program participant’s income.**

§578.77 Calculating occupancy charges and rent (c)(3) states that

“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.”

§578.103 Recordkeeping requirements (6) (i) (ii) (iii) and (iv) states that the following documentation of annual income must be kept by recipient or subrecipient:

“(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.”

Written Standard #11: Recalculating Occupancy Charges and Rent

- **If there is a change in family composition or a in the resident’s income during the year, the resident must report the change. At this time an interim reexamination will occur which may result in adjustments to the occupancy charge, rent, or size of certificate.**

§ 578.77 Calculating occupancy charges and rent (b) (4) notes the following about recalculating occupancy charges and rent

“(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."

Written Standard #12: Supportive Services Agreement

- **Programs may require participants to participate in supportive services that are not disability-related as a condition of continued participation in the program. To do so the program must submit policy for review and obtain approval from the Commission prior to making supportive services a requirement. The Commission would determine whether these requirements would be viewed as barriers based on HUD's Housing First Model.**

§ 578.75 General operations (h) states that

"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."

From "HOUSING FIRST IN PERMANENT SUPPORTIVE HOUSING" (see www.hudexchange.info/resources/documents/Housing-First-Permanent-Supportive-Housing-Brief.pdf)

"Supportive services are voluntary, but can and should be used to persistently engage tenants to ensure housing stability - Supportive services are proactively offered to help tenants achieve and maintain housing stability, but tenants are not required to participate in services as a condition of tenancy. Techniques such as harm reduction and motivational interviewing may be useful. Harm reduction techniques can confront and mitigate the harms of drug and alcohol use through non-judgmental communication while motivational interviewing may be useful in helping households acquire and utilize new skills and information."

Written Standard #13: Termination of Assistance

- **Assistance may be terminated to a program participant who violates program requirements or conditions of occupancy by providing a formal process that recognizes the due process of law.**

On page 37 of the Preamble of the HEARTH Act, the following is stated concerning 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."