



November 16, 2012

Regulations Division
Office of General Counsel
451 7th Street S.W.
Room 1026
Department of Housing and Urban Development
Washington, DC 20410-0500

Re: Docket No. FR-5476-I-01: Homeless Emergency Assistance and Rapid Transition to Housing: Continuum of Care Program

The Council of State Community Development Agencies (COSCDA) represents state housing and community development agencies responsible for administering the Department of Housing and Urban Development (HUD) programs, including the Community Development Block Grant (CDBG) program, the HOME Investment Partnerships (HOME) program and the McKinney-Vento Homeless Assistance Programs. On behalf of the members of COSCDA, I respectfully submit the following comments and questions regarding the interim rule, Continuum of Care Program.

COSCDA commends HUD for providing additional time for reviewing and commenting on the regulations. We also thank the HUD Special Needs Assistance Office for attending COSCDA conferences and listening to suggestions offered by our members during the writing of these regulations.

COSCDA understands HUD's emphasis on CoC collaboration, including with local Emergency Solutions Grant (ESG) grantees, to deliver homeless assistance; however, the CoC process as outlined in these regulations will pose some difficulties at the state level, particularly for states with large rural areas. Some of the more prescriptive regulations will be difficult for states to fulfill. The CoC approach appears to be designed for local governments where facilities are geographically close. For example, §578.7(a) (9) requires a consultation with ESG recipients within the geographic area to establish and follow written standards for providing CoC assistance. Due to the nature of rural areas, the distance, the differences in available service types and disparate level of resources among communities will require a more flexible approach to achieve the desired collaboration. More specific comments on how HUD can acknowledge these differences are included below.

Comments on CoC Interim Regulation

Subpart B

Board annual/biannual meeting: §578.7 The requirement to hold meetings of the full CoC membership at least semi-annually is unwieldy if not impossible in the balance of state and large CoCs, in which hundreds of organizations are involved. Even virtual meetings would be unwieldy and would probably

not provide a meaningful exchange of ideas. We suggest that HUD provide for more flexibility for large CoCs to continue operating with regional/county or local subgroups that provide meaningful input to the CoC planning process.

Participation of Homeless and Formerly Homeless Individuals: §578.5 Although COSCDA wholly supports the participation of homeless and formerly homeless individuals in CoC activities, the rule goes beyond what is required in the HEARTH statute. The statute indicates the homeless and formerly homeless people should have participation on the recipient boards, not necessarily a governing board of a CoC. COSCDA recommends that HUD revise this regulatory requirement to assure active, appropriate involvement of homeless and formerly homeless people.

Mandating homeless participation in CoC board planning activities is not always the most effective method for gaining input from homeless or formerly homeless individuals. To many, the meetings are largely spent discussing technical rules, regulations, and legal requirements, and may not be interesting. In large rural CoCs, travel and meeting times impede participation of homeless and formerly homeless people, particularly for those that work. COSCDA calls on HUD to drop the requirement for a homeless/formerly homeless member on the CoC governing board.

The methods of such participation should be more flexible and include a range of methods, including focus groups, interviews, questionnaires, exit interviews, targeted meetings of homeless and formerly homeless individuals, etc.

Centralized or Coordinated Assessment System: §578.7(a)(8). COSCDA recommends that HUD more clearly define the purpose of the assessment to involve only “as many questions as necessary to determine the appropriate initial intervention.” The use of the word “comprehensive” is not adequately defined and is confusing. While a comprehensive needs assessment is desirable, that assessment is not required as part of Centralized or Coordinated Assessment. The required elements should be clearly articulated. The “comprehensive” process should not be so laborious that it delays assistance to homeless families. It should focus on the initial placement/referral for assistance.

COSCD A also notes that there is no dedicated funding stream to implement and operate this system. This will prove to be a challenge in many communities, especially where state and local funding sources that have traditionally supplemented homeless services have been cut. We encourage HUD to allow communities to apply for a coordinated system as a new project or to be more creative in the reallocation process to fund this through sources other than SSO reallocation.

Role of the Collaborative Applicant vs Unified Funding Agency: §578.11 There is some confusion regarding the role of the Collaborative Applicant and the Unified Funding Agency. COSCDA asks that HUD specify the responsibilities of each, and how they differ, particularly the monitoring and oversight/compliance responsibilities.

Measuring and Rewarding Incentives §578.17 (a) (2)(ii) Although COSCDA thinks performance should be incentivized, determining the performance for bonuses or incentives should be designed to reflect local variables, including the subpopulations being served, the local housing market, etc. In the past, these types of incentives have resulted in penalizing smaller rural communities that, while having fewer resources and serving fewer households, do an excellent job of utilizing those resources to the best of their ability. Incentives should be awarded based on an equitable competition that acknowledges local variables, including the local housing market, size of the community, specific subpopulations being served, etc. in order to ensure that they apply equally to smaller and rural communities. COSCDA asks that HUD work with state and national associations to develop the standards imposed for CoC programs in awarding bonuses or incentives.

Annual Monitoring of Subrecipients by UFAs: §578.23 The interim rule requires that recipients monitor subrecipients at least annually. This standard could be quite challenging for larger CoCs, particularly states, with large geographic regions in a CoC. This monitoring standard is also more rigorous than other HUD programs such as the Community Development Block Grant or HOME Program. COSCDA recommends that HUD revise the interim rule to allow for monitoring less frequently than an annual basis. The language should allow for on-site monitoring up to three years apart, but could be supplemented with other oversight strategies such as reporting on activities or desk audits of financial or other critical data.

Subpart D

Annual reevaluation of eligibility: §578.37(a)(1)(ii)(E) COSCDA supports the interim requirement to reevaluate eligibility and appropriateness of the service package for a program participant on an annual basis. COSCDA disagrees with changing the interim rule to require more frequent reevaluations. Scheduling appointments and conducting reviews is extremely labor intensive, not to mention burdensome on a person who may have just started a new job and cannot afford to take the time off.

Case management: §578.37(a)(1)(ii)(F) COSCDA recommends that HUD eliminate the requirement that program participants have monthly meetings with a case manager. Recipients should determine the amount of case management that each program participant needs. Monthly case management may be too restrictive. Needs may be greater initially, and diminish overtime. Further, imposing a monthly standard may misdirect limited funds if an individual/family does not need such a schedule of case management. Consequently, COSCDA suggests that an appropriate schedule be established, agreed upon between the case manager and the client, documented in the case file, and adhered to.

Transition, rental assistance and leasing: 578.49(b)(8) There is a lack of distinction between what is allowable under “Leasing” and what is allowable under Sponsor Based Rental Assistance (SBRA). It appears that the only difference is that there is a requirement of a contract between the recipient and a sponsor agency under SBRA. Therefore, the real distinction between these components needs to be made explicit.

Another bigger concern, during the development of the Grant Inventory Worksheet (GIW) process in preparation for the 2012 competition, provider agencies with a leasing line in their renewal budget had a very short timeline to decide whether to maintain a leasing budget or transition to rental assistance. In addition, the guidance on this issue was piecemeal. As a result, there are agencies that did not have adequate time or knowledge to make an informed decision. Therefore, COSCDA requests that HUD by rule or program notice provide the opportunity to decide between leasing and rental assistance again in future years.

Property damage amount: §578.51(j) The allowance of the use of no more than one month’s rent to pay damages caused by a program participant may be problematic. This amount may not be enough to convince property managers to rent to homeless individuals and families, since the property managers may assume that they will need more for repairs. This language is also appears to conflict with security deposit provisions found §578.49 (b)(4) and § 578.51(a)(2). COSCDA recommends that HUD allow use of funds totaling at least 2 months rent to cover damages.

One-year requirement for leasing: §578.51(1)(1) The requirement for a one-year lease can be too long in some markets. Many private rental housing owners do not follow this standard. COSCDA has heard that many landlords will not accept Sect.8 vouchers because of the initial one-year requirement. COSCDA asks HUD to reduce the minimum leasing period to at least six months.

Lease or occupancy requirement for transitional housing: §578.51(1)(2) COSCDA asks that HUD provide additional guidance on the required content of occupancy agreements.

Continued service: §578.53(a)(3) For the first six months after program participants leave homelessness for permanent housing, they can continue to receive services. COSCDA requests that HUD extend this time period to one year, as in the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program.

Eligible Costs: §578.55 The eligible operating costs listed in §578.55 “Operating Costs” only include electricity, gas and water. COSCDA recommends that HUD allow a reasonable amount for internet service as part of utility costs.

Current funding of planning: §578.39 and §578.59 Although the interim rule allows up to 3 percent of the Final Pro Rata Need (FPRN) to be used for planning, the Notice for the 2012 Opportunity to Register for Electronic Application Submission for the CoC Competition and the 2012 Notice of Funding Availability (NOFA) announced a significantly lower amount. The maximum amount that HUD will grant for planning under this program notice is only 1.25 percent, and the amount is capped at \$250,000. Although the lower percentage and cap are apparently due to lower appropriations, COSCDA asks that this percentage be increased and as consistent from year-to-year as possible. The complex nature of this planning and new program management requirements assigned to CoCs, require added tasks and expanded planning efforts. These tasks, while clearly improving the homelessness assistance provided through the CoC, will become troublesome requirements for Collaborative Applications to fulfill, even those who want to plan properly.

Similarly, the interim rule allows project administrative costs of up to 10 percent. However, the NOFA takes two steps that impede this flexibility. First, HUD has asked for renewal project budgets to show how they could be reduced by 3.5 percent, creating uncertainty as to what the ultimate funding level will be. Second, the NOFA identifies a scoring bonus for those CoC that submit all projects with administrative costs that do not exceed 7 percent. This action will also limit the flexibility for administrative costs allowed under the interim rule. COSCDA supports the existing interim rule on both planning and administrative cost levels which should be implemented at the statutory levels and as allowed for in the interim rule.

Subpart E

High Performing Community: §578.65 The requirement that HPCs are chosen annually can make it difficult for grantees to design and implement a homelessness prevention program. COSCDA asks that HUD consider a multiple year award/commitment of at least three years to provide adequate time to initiate and demonstrate results for prevention program.

Subpart F

Match: §578.73 COSCDA recommends that the interim rule clarify and allow tenant contribution toward rental assistance or housing costs to be considered an acceptable form of match.

Continuum-wide Match Requirement: §578.73(a) The HEARTH Act requires a Continuum-wide approach to the matching requirement. However, the match requirement in the interim rule regulations only allows this type of matching requirement in CoCs with a Unified Funding Agency. Other Collaborative applicants do not have this same flexibility. COSCDA urges HUD to adopt this requirement in both CoCs, those with UFAs and those without.

Program Income Retention: §578.97 The interim rule requires that program income must be retained by the recipients that are also Unified Funding Agencies (UFA). While this approach is appropriate for those within a Collaborative Application without a UFA, it is not workable for some potential UFAs, particularly state agencies that manage a large number of subrecipients across a broad area. The most appropriate structure may be to allow an option for the subrecipients to retain program income and continue its use with that subrecipient. Managing the accounting structure for small payments from a large number of subrecipients would be a deterrent for some state agencies to become a UFA.

Additional comments:

Templates or Technical Assistance and Program Notice Guidance COSCDA asks that HUD provide the anticipated additional guidance on the interim/final rule promptly, even before the final rule is issued. HUD staff has indicated that guidance documents will be provided on topics such as Centralized or Coordinated Assessment, paying for the assessment, content of occupancy agreements, and merging HMIS systems for CoC's with more than one HMIS. It is difficult and costly for states and Collaborative Applicants to make revisions to their CoC programs and procedures due to additional "guidance" after the program has been developed. Currently, states and Collaborative Applicants are making decisions and structuring new approaches without this guidance because of the timelines to implement the new CoC rule.

Flexibility in changing locations: COSCDA asks HUD to clarify that a program participant in a permanent housing project funded through HUD's homeless programs may move into another permanent housing project funded through those programs when necessary and appropriate.

Training and Technical Assistance: Under the interim rule Training and Technical Assistance provided by the Collaborative Applicant is not an allowed activity under the uses of Planning funds provided to the CoC Collaborative Applicant. There are Continuum-wide efforts such as the Centralized or Coordinated Assessment that require provision of training and assistance to a wide range of nonprofit, provider, and local government agencies. There may be tools or assessment forms that the Collaborative Applicant needs to train other organizations within the CoC. This restriction is an unnecessary and a difficult limitation on the activities of the Collaborative Applicant.

Further, the interim rule places a restriction on the use of Administrative Costs to only allow those funds to be used for HUD-approved training. While it makes sense to restrict the use of administrative funds to prohibit personal improvement courses and training that is not related to the CoC, the currently worded restriction would prohibit CoC members for using administrative funds to register and travel to a training directly related to HMIS or Centralized/Coordinated Assessment. Such training falls outside the scope of allowed uses, but is directly applicable to effective management of a CoC. Further, rural CoCs that cover a large geographic area are more likely to need to travel for appropriate training that is sponsored, led, and directed by the CoC and Collaborative Applicant. COSCDA recommends that HUD modify the interim rule to allow training related to management of the local CoC to be an eligible use of administrative funds.

HUD Program Administration: In recent years, CoC applicants and program providers have been subject to a widely varying NOFA application schedule and due date every year. The fact that the application schedule changes so significantly every year is extremely disruptive to the CoC planning process. Further, the fluctuating application approval cycles for renewal projects leaves them in jeopardy of having a gap in funding. COSCDA calls on HUD to establish a consistent annual schedule for application submission and approvals.

Thank you for allowing us to provide comments on the interim regulations. Please do not hesitate to contact me if you need further clarification of our comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dianne E. Taylor".

Dianne E. Taylor
Executive Director