



August 3, 2015

Regulations Division
Office of General Counsel
451 7th Street S.W.
Room 10276
Department of Housing and Urban Development
Washington, DC 20410-7000

Re: Docket No. FR-5474-N-02: Emergency Solutions Grants (ESG) Program, Solicitation of Comments on Specific Issues

The Council of State Community Development Agencies (COSCARDA) 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 COSCARDA, I respectfully submit the following comments regulatory review, **Emergency Solutions Grants (ESG) Program, Solicitation of Comments on Specific Issues**

COSCARDA commends HUD re-issuing the interim rule for the ESG Program. Grantees have gained much experience since the interim rule became effective, and we appreciate the opportunity to share our experiences and help to improve the final rule's requirements.

In the re-issued regulations, HUD proposes several new requirements regarding definitions, the Con Plan, and the ESG program. COSCARDA believes, however, that these proposals are too prescriptive and far-reaching. We suggest that, for many of them, HUD allow the state to determine its course of action. Indeed, for many of the proposals, the state currently has the discretion, and we would like this to continue. For many of HUD's proposals for change, guidance would be more appropriate, rather than a regulatory mandate. We provide specific comments below.

A. Definitions:

"At risk of homelessness" (p 31540): HUD asks the characteristics to be added to the definition to aid recipients in determining who is at risk of homelessness. COSCARDA suggests that "previous episodes of homelessness" be added to the characteristics.

"Emergency Shelter" (p 31540): HUD asks if this definition should be changed by removing or altering the concept of "grandfathering in" projects in the interim rule. COSCARDA suggests that

the state should be allowed to use their discretion to determine whether transitional housing that has been funded in the past should continue to be funded under ESG. COSCDA understands HUD's focus on rapid-rehousing and states acknowledge the importance of this practice, however states and their subrecipients also see the value in transitional housing and are in the best position to know the needs of their communities and the types of shelters that will best accommodate these needs.

“Project” (p 31543): HUD proposes a definition and asks if it should allow each recipient or subrecipient to self-define the project in the Action Plan or in the subrecipient's agreement. COSCDA suggests that HUD should not get overly prescriptive with this definition and allow the state to determine its definition of project.

B. Consolidated Plan:

Area-Wide Systems Coordination Requirements: Consultation and Coordination (p. 31554):

Definitions of “consultation”, “coordinating” and “integrating”. “HUD asks for suggestions of the definitions for “consultation”, “coordinating”, and “integrating”. COSCDA supports HUD's proposal to require states to define these term(s) themselves in their Consolidated Plan and meet their own requirements.

CoC Boards: HUD proposes a requirement that all CoC boards include at least one member from the ESG recipient's staff located within the CoC's geographic area. For states with a small ESG staff, it might be difficult for the staff to participate on each CoC's board (travel and time required, etc.). Perhaps the recipient's staff could attend occasional board meetings.

Consulting with Tribal Groups: HUD asks if it should require consultation with tribal groups to the extent that the recipient intends to fund organizations serving people or activities on tribal lands. COSCDA suggests that the CoCs consult with local tribal groups.

Housing and Homeless Needs Assessment:

“Nearing the termination of rapid re-housing assistance”: HUD is considering either eliminating the requirement for state and local governments to collect data identifying households more likely to return to homelessness after rapid re-housing assistance ends, or clarifying the rule to only require ESG or CoC funded participants within 30 days of assistance termination to be counted. COSCDA recommends that HUD eliminate this requirement.

Estimating needs for States: HUD is questioning whether using public housing or Section 8 waitlist data is helpful for state planning. COSCDA agrees that the use of this data.

Scope of Consolidated Plan Data for States: HUD is considering giving states two options for reporting their Homeless Needs Assessment. If their territory includes entitlement jurisdictions, states must cite the jurisdiction and source of the data, or only report non-entitlement jurisdictions. COSCDA agrees with providing this option for states.

States use of HMIS and PIT data: HUD is considering requiring that states use HMIS and PIT data just as local government are required to. COSCDA would agree with this requirement.

C. Emergency Solutions Grants Program Regulations:

Street Outreach and Emergency Shelter Components (p 31546)

Day Shelters: HUD is considering explicitly stating that day shelters are emergency shelters. COSCDA urges HUD to allow states to determine whether day shelters should be funded with ESG funds.

Involuntary family separation: HUD is proposing that a shelter must serve all members of the family together if the members of the family so choose. COSCDA agrees that all family members that arrive at a shelter should be assisted. However, sometimes it is difficult to determine who the actual family members are when various people who claim to be family members arrive at the shelter.

Fees in emergency shelters: HUD is considering explicitly allowing emergency shelters to charge reasonable occupancy fees. COSCDA suggests that HUD give states the discretion to determine whether fees should be charged in emergency shelters.

Essential Services for Street Outreach, Case Management and Emergency Shelter, Case Management (obtaining identification document): HUD is considering allowing ESG funds to pay for the process of obtaining documents for program participants. COSCDA agrees that ESG funds should be used to pay for the process of obtaining identification documents for program participants, if it is necessary for the participant to receive public benefits or other services.

Local Residency Requirements: HUD is considering adding a rule requiring recipients or subrecipients to provide service regardless of the last permanent address. COSCDA suggests that HUD allow the state to determine whether subrecipients can provide service to those who have not lived in the jurisdiction at the last permanent address.

Defining “rapid” and “as quickly as possible” (p 31548) HUD is considering requiring communities to set standards on the definition “rapid” and “as quickly as possible” based on local data and systems or continuing the current policy with no standard. COSCDA suggests that HUD allow states to determine the definition of “rapid” and “as quickly as possible” to be used by subrecipients.

Court costs. HUD is considering allowing court costs and legal activities for a landlord during the eviction process when necessary for the participant to stabilize housing. COSCDA suggests that HUD allow states to determine whether ESG funds should be used for court costs.

Mediation: HUD is considering funding mediation for families and individuals to return to housing they have already left under both rapid re-housing and homelessness prevention components. As with court costs, mediation costs can be high. COSCDA suggests that HUD allow states to determine whether ESG funds should be used for mediation services.

Credit reports: HUD is considering allowing ESG funds to be spent on credit reports for participants of a rapid re-housing program. COSCDA agrees that HUD should allow ESG funds to be used to pay for credit reports when all other options for a free report have been exhausted and a report is necessary to obtain housing.

Short-Term and Medium-Term Rental Assistance (p 31549)

Rental assistance in shared housing – general: COSCDA agrees that ESG funds should be used to provide rental assistance for participants in shared housing.

Rent restrictions (FMR): HUD is considering alternatives for changes to the final rule to provide recipients and subrecipients with more flexibility in order to quickly find appropriate units. COSCDA supports the use of alternatives to the FMR for rent restrictions.

Last months' rent, security deposits, and rental arrears: HUD is considering reclassifying last month's rent and security deposits as rental assistance rather than housing stabilization and relocation services. COSCDA agrees with this reclassification.

Providing subrecipients with discretion to set caps and conditions: HUD is considering allowing subrecipients the ability to set caps on benefits for a family or household in the same manner as recipients can. COSCDA agrees with this proposal if states allow this action for their subrecipients.

Tenant-based rental assistance (TBRA): HUD is considering prohibiting recipients from denying rapid re-housing assistance to those whose most recent permanent address fell outside of their jurisdiction. COSCDA agrees that homeless individuals and families should not be denied rapid re-housing assistance if the most recent permanent address fell outside of their jurisdiction. This policy needs to be clarified to truly help follow the motto "No wrong door;" especially in the rural CoC's.

Administrative Activities: HUD is considering allowing ESG funds to be used for subrecipients to attend training on ESG requirements when HUD-sponsored, HUD-approved, or a recipient-sponsored. COSCDA has previously asked HUD to revise the regulations to allow homelessness-related training and technical assistance undertaken or supported by state governments to be eligible planning grant costs and administrative costs. State subrecipients should be able to use these funds for travel and attendance to state-sponsored homelessness meetings, trainings and conferences. COSCDA is planning to develop basic training on the ESG and homelessness programs, which would be sponsored and delivered by state homeless program managers. We are pleased that HUD is considering changing the regulations, and want HUD to clarify that training developed by national organizations such as COSCDA can be delivered by state agencies and attended by ESG program managers who use their ESG administrative funds to attend the training.

Obligation, Expenditure, and Payment Requirements (p 31554)

Exceptions: HUD is considering allowing a recipient an extension of 3 months for the obligation requirement and up to 12 months for the expenditure deadline. COSCDA is supportive of this change. States need additional time for obligation and expenditure of funds. COSCDA also asks that HUD revise the rule regarding payments to subrecipients, to allow states to pay allowable costs to subrecipients within 45 days after receiving a complete payment request rather than 30 days.

Reallocation of State ESG Funds: HUD is considering changes to the process when a state declines its ESG allocation. COSCDA urges HUD to keep the current requirement to make ESG funds available to all of the non-urban counties in the state.

Shelter and Housing Standards (p31557):

Essential services only (emergency shelters): HUD is considering requiring emergency shelters receiving ESG funding for essential services only to still meet the habitability standards for ESG funded shelters. COSCDA supports this change to the rule.

Housing Quality Standards: HUD is considering allowing recipients to use the Housing Quality Standards rather than the current ESG standards. COSCDA supports this allowance.

Conflicts of Interest (p 31557): HUD is considering revising the conflict of interest rules regarding housing search assistance with units owned by a parent or subsidiary, and is considering prohibiting person conflicts of interest, such as in the grant-making process. COSCDA supports this proposal.

Other Federal Requirements – Limiting Eligibility and Targeting (p 31558)

Recipient sanctions: (p 31559) HUD is considering removing the expenditure deadline requirement in cases when sanctions for noncompliance cause the reallocation of funds. COSCDA is supportive of this proposal.

Thank you for allowing us to provide comments on these re-issued ESG regulations. Please do not hesitate to contact me if you need further clarification of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Dianne E. Taylor".

Dianne E. Taylor
Executive Director