Continuum of Care Interim Rule:
From Regulations to Reality to Results

History of HEARTH

A.   **What is HEARTH?[1]**
1.   Homeless Emergency Assistance and Rapid Transition to Housing
2.   Signed into law on May 20, 2009
3.   Reauthorized and amended already existing legislation – McKinney-Vento Act
4.   Once HEARTH was signed into law, HUD developed these 6 sets of regulations to implement the legislation.

- **Regulation #1:** Definition of Homeless
  - Published as a final rule on December 5, 2011.
  - This definition has been incorporated into all the programs authorized by the HEARTH Act – ESG, Consolidated Plan regulations, CoC Program, and Rural Housing Stability Assistance.
  - This training is being held on February 25th in Madison and March 5th in Stevens Point by the Division of Housing.

- **Regulation #2**: Emergency Solutions Grant (ESG) Program
  - Published on December 5, 2011.
  - In effect for all recipients of the 2nd allocation of the FY-2011 funds as well as the FY-2012 ESG funds.
  - HUD is in the process of reviewing public comment and preparing the final regulations.

- **Regulation #3:** Conforming Amendments to the Consolidated Plan
  - Published on December 5, 2011.

- **Regulation #4:** Homeless Management Information Systems (HMIS)
  - Proposed on December 9, 2011.
  - HUD received over 80 comments and is in the process of preparing the final rule.
  - Until the rule is published, users of HMIS should continue to use the current standards in place – 2010 Data Standards and 2004 Notice on Technical Standards.

- **Regulation #5:** Continuum of Care (CoC) Program
  - The focus of this presentation!!

- **Regulation #6:** Rural Housing Stability Assistance Program
  - The rule is "coming shortly."

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[1] CoC Program: Overview of the Interim Rule and FY 2012 Competition Webinar, July 2012

B.   What is the purpose of HEARTH?[2]
　　1.   To codify in Federal law the Continuum of Care planning process as a required and integral local function necessary to generate the local strategies for ending homelessness.

　　2.   To establish a Federal goal of ensuring that individuals and families who become homeless return to PH within 30 days.

　　3.   To provide clarification on the following terms: homeless, homeless individual, homeless person, and homeless individual with a disability

C.   HUD's Intent Regarding Implementation of HEARTH

➢ According to Ann Oliva (Director, HUD Office of Special Needs Assistance Programs):[3]
"It is important to note that HUD is a key partner in the implementation of Opening Doors, the Federal strategic plan to prevent and end homelessness. The goals set forth in the plan help to guide the policies that are reflected in the regulation itself. You'll see if you were to look at both documents next to each other they closely reflect each other in terms of policy drivers. It also helps us [HUD] to determine our policy priorities in the annual NOFA. That is, when we look at where we want to spend our money – we look to the federal strategic plan to understand how funds should be targeted at the national and local level."

D.   Opening Doors: Federal Strategic Plan to Preventing and Ending Homelessness[4]
　　1.   There are 4 major goals:
- End chronic homelessness by 2015
- End veteran homelessness by 2015
- End family & youth homelessness by 2020
- Set a path to ending all homelessness

　　2.   The U.S. Interagency Council on Homelessness (ICH) is tracking the progress through HUD's annual point-in-time (PIT) data.

　　3.   In addition, HUD has 3 measures they are tracking internally related to Rapid Re-housing, Permanent Supportive Housing, and Affordable Housing. These targets inform our budgeting and planning processes.

　　4.   The Federal Strategic Plan is also the policy driver for the NOFA. The underlying assumption in meeting the goals for the Federal Strategic Plan is that we are placing people into the right housing and services in order to meet their needs.

Website:http://www.usich.gov/opening_doors/

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[2]CoC Program: Overview of the Interim Rule and FY 2012 Competition Webinar, July 2012
[3] CoC Program: Overview of the Interim Rule and FY 2012 Competition Webinar, July 2012
[4] HUD's Homeless Assistance Overview of FY 2012 Funding and HEARTH Update Webinar, July 2012

E. Funding of HEARTH[5]

1. To fully implement the HEARTH legislation, it would cost over $4 billion.

2. In FY-2012, HUD requested approximately $2.3 billion to implement "most" aspects. However, Congress scaled back the request even further.

	Column A **President's Request**	*Column B* **Received**	*Column C* **Difference A & B**
Emergency Solutions Grant	$286 million	$250 million	$36 million less
Continuum of Care & Rural Housing Stability Assistance	$2.030 billion	$1.593 billion	$437 million less
HMIS	$6 million	$7 million	$1 million more
Incentive and Service Coordination Initiatives	$50 million	0	$50 million less
HUD-VASH	$75 million	$75 million	Exact!
Total Amount	$2.372 billion	$1.901 billion	$471 million less

3. In FY-2013: HUD intends to:
   - Tailor specific, existing, programs
   - Implement innovative strategies for engagement
   - Expect that homeless individuals and families will utilize mainstream resources and benefits more often

F. The Paradigm Shift – Congress Changing Perspective[6]

1. In a recent House Appropriations Report, the following statement was made in regards to the types of projects being renewed and the need for strategic thinking. The report reads, in part:

The Continuum of Care is supposed to be a competition grants program . . . It is not the committee's intention to maintain an entitlement program for ailing and inflexible service providers. The Committee reminds providers in the Continuum of Care that these funds are intended to assist and house the homeless as effectively and efficiently as possible.

2. According to Jonathan Harwitz (Deputy Chief of Staff for Budget & Policy, Office of the HUD Secretary):

"There is an expectation that renewals will not be automatic. The paradigm shift must be made locally. We are no longer in a fiscal environment that will allow us [HUD] to do anything but work as effectively and efficiently as possible."

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[5]HUD's Homeless Assistance Overview of FY 2012 Funding and HEARTH Update Webinar, July 2012
[6]HUD's Homeless Assistance Overview of FY 2012 Funding and HEARTH Update Webinar, July 2012

G.   McKinney-Vento Act Regulations Then and Now

    1.   ESG
- It was originally called "The Emergency Shelter Grant."
- Now, it is called "The Emergency Solutions Grant."

    2.   CoC
- It was originally comprised of 3 different homeless assistance programs: Supportive Housing Program (SHP), Shelter Plus Care, and Section 8 Mod. Rehab. SRO.
- Now, the 3 have been consolidated into, "The Continuum of Care Program."

    2.   Together
- These regulations were <u>intentionally</u> designed to allow and requireESG recipients and CoC-funded programs to coordinate planning and service delivery across the CoC's geographic area.

H.   HUD's Guiding Values[7]

    1.   <u>Guiding Value #1: Best Serving people who are homeless</u>

- The CoC & ESG regulations provide communities flexibility to determine what this means to them & what works best.
- However, CoC's have the responsibility to:
  - o Evaluate, on a system-wide level (not just at a project level), performance of ESG & CoC recipients to ensure the processes implemented effectively meet the housing and service needs of homeless persons within the CoC.
  - o Make decisions that are driven by data and the information that you are getting in your community.

➢ Direct Statements from HUD regarding Guiding Value #1

(1)   According to Jonathan Harwitz (Deputy Chief of Staff for Budget & Policy, Office of the HUD Secretary):
"In terms of effectively serving homeless persons . . . I bring up the notion of dosage. Basically we need to get right, the exact intervention that different populations need. It is simply not possible in our current fiscal environment to be offering richer more expensive intervention that might be helpful with somebody but isn't precisely what's needed to most efficiently end homelessness for the greatest number of people."

(2)   According to Ann Oliva (Director, HUD Office of Special Needs Assistance Programs):
"The other part of the HEARTH Act that's really important for people to remember and to pay attention to is . . . [HUD is] going to be providing, through the HEARTH implementation, new tools to [help providers serve homeless persons], they also provide CoCs with new authority to be able to implement those changes locally that they've never had before."

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[7]HUD's Homeless Assistance Overview of FY 2012 Funding and HEARTH Update Webinar, July 2012

(3)   According to Brett Gagnon (Desk Officer, HUD Office of Special Needs Assistance Programs):
"It is also one of the reasons [HUD] has been pushing [homeless providers] to develop your HMIS systems over the past several years is because your HMIS data is going to be critical to look into the system-wide level performance measures."

2.   Guiding Value #2: Comprehensive local collaboration, coordination, &decision making

- ESG & CoC program funds recipient must work collaboratively to:
    o Make decisions about ESG & CoC funding within the CoC's geographic area
    o Develop written standards for evaluating and serving homeless persons
    o Implement a centralized or coordinated assessment system
    o Create performance standards and evaluate projects against these standards

➤ Direct Statements from HUD regarding Guiding Value #2

(1)   According to Brett Gagnon (Desk Officer, HUD Office of Special Needs Assistance Programs):
"It is important that when someone comes into any door in the CoC that they are evaluated in the same way that they would be in any project across the continua. It can't just be this person's presenting and I have a bed. Is this person appropriate for here? And, if not where is another place in the continua that would be the best fit for them."

"To help with this, CoCs and ESG recipients are required to implement a centralized coordinating assessment system and ALL recipients of CoC and ESG funds are going to be required to use the coordinated assessment system."

(2)   According to Ann Oliva (Director, HUD Office of Special Needs Assistance Programs):
"[Taking the example of chronically homeless persons and families] . . .these folks have high needs and it might be difficult to serve so we don't want you to create performance standards that make it impossible for the programs who are really designed to serve those folks to not be able to meet the standard. So they need to ... be reflective of the population that that particular program is designed for."

(3)   According to Jonathan Harwitz (Deputy Chief of Staff for Budget & Policy, Office of the HUD Secretary):
"Implementing a centralized or coordinated assessment system is absolutely critical in thinking systematically . . . there is really no way to do that if you have an incoherent and somewhat haphazard way of assessing what the needs are of homeless persons."

3.   Guiding Value #3: Data collection and performance
- Use of HMIS is required for all recipients of CoC and ESG funds, except for victim service providers.
- HUD will use HMIS data to understand the nature and extent of homelessness throughout the country, report to Congress, and make funding decisions.

- CoCs should use HMIS data locally to report to HUD, monitor recipient and sub-recipient performance, and monitor system-wide performance in preventing and ending homelessness.

➢ Direct Statements from HUD regarding Guiding Value #3

(1)   According to Brett Gagnon (Desk Officer, HUD Office of Special Needs Assistance Programs): *"This is one of the increased responsibilities and increased power of the continuum of care – you are all now able to monitor recipient &sub-recipient performance. You should be looking at the performance across all of your programs, setting local goals that make sense, and then ensuring that your local projects are meeting those goals. If [they are] not, figuring out a way to help them meet those goals."*

(2)   According to Ann Oliva (Director, HUD Office of Special Needs Assistance Programs):

"This is kind of a moment…In 1995, we started to implement the continuum of care approach across the country and it really changed the approach to homeless assistance and the way we manage at the local level – from having many thousands of individual non-profits doing whatever it is they are doing locally and applying directly to HUD, it changed that to a coordinated & comprehensive approach that really started to look at data, started to understand what the gaps are in any particular system, and be strategic in thinking at the local and national levels.

We have an opportunity right now with the implementation of the HEARTH Act to go a step further and that means that now is the time to take our strategic thinking to the next level."

Continuum of Care Interim Rule

A. Organization of the Rule: 7 subparts[8]

➢ Subpart A – General Provisions
  • Purpose & scope of the CoC program
  • Definitions

➢ Subpart B – Establishing and Operating a Continuum of Care

According to Ann Oliva (Director, HUD Office of Special Needs Assistance Programs):
"Structure discussed for the 1st time in the regulation. Because it is now discussed in a regulation, not just in the NOFA, it means that it is subject [to] monitoring. Which means that HUD can come out and monitor on any of the regulations – including how the CoC is established and operates."

  (1) Requirements for establishing the CoC
  (2) Responsibilities of the CoC
  (3) Process for preparing an application for funds
  (4) Process for being designated a UFA
  (5) Remedial actions that HUD may take for CoCs that do not meet the criteria of the Act

➢ Subpart C – Application and Grant Award Process
  • Eligible applicants
  • Process for applying for funds
  • Process for awarding funds, including the grant execution/agreement process
  • Requirements for appealing funding decisions made by:
    o The CoC
    o The Consolidated Planning Jurisdiction
    o HUD

➢ Subpart D – Program Components and Eligible Costs
  • Program components
  • Eligible costs

➢ Subpart E – High Performing Communities
  • Standards CoCs must meet to apply to be designated a High Performing Community
  • The application process for becoming a HPC
  • Eligible activities a recipient within a HPC may carry out.

➢ Subpart F – Program Requirements
  • Matching requirements
  • Housing standards

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[8]CoC Program: Overview of the Interim Rule and FY 2012 Competition Webinar, July 2012

- Calculation of rent & occupancy charges
- Limitation on uses of funds
- Timeliness standards
- Other federal requirements

> Subpart G – Grant Administration
> - Recordkeeping requirements
> - Standards for grant and project changes
> - HUD and recipient sanctions
> - Close-out procedures

B.   Purpose of the Program (Subpart A)[9]

1.   The Continuum of Care program is designed to assist sheltered and unsheltered homeless people by providing the housing and/or services needed to help individuals move into transitional and permanent housing, with the goal of long-term stability.

2.   According to 24 CFR Part 578.1(b), the primary purpose of the CoC Program is to:
   - Promote community-wide commitment to the goal of ending homelessness.
   - Provide funding for efforts by nonprofit providers, States, and local governments to re-househomeless individuals and families rapidly while minimizing the trauma and dislocation caused to homeless individuals, families, and communities as a consequence ofhomelessness.
   - Promote access to and effective use of mainstream programs by homeless individuals and families.
   - Optimize self-sufficiency among individuals and families experiencing homelessness.

3.   What does this mean?[10]
HUD began implementing the CoC process in 1995 through the NOFA. Each year, the NOFA guided the development of COCs and encourages communities to work together to address homelessness in a coordinated manner. In addition, HUD published user guides and FAQs and other technical assistance materials to assist communities develop effective CoCs and often meant that information was scattered and not easily located. The CoC program regulation changes this. Finally, the CoC program provides funding to support the CoC's planning and organizing.

4.   The Continuum of Care Interim Rule formalizes the following CoC responsibilities:
   - Coordinating, or be involved in the coordination of, all housing and services for homeless persons within its geographic area.
   - Coordinating McKinney-Vento funds awarded within its geographic area.
   - Establishing & operating the HMIS within its geographic area.
   - Establishing and operating, or designating, the centralized or coordinated assessment to be used within its geographic area

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[9] Introductory Guide to the Continuum of Care (CoC) Program, 2012
[10]CoC Program: Overview of the Interim Rule and FY 2012 Competition Webinar, July 2012

C.   Establishing & Operating a Continuum of Care (Subpart B)

➤ According to Ann Oliva (Director, HUD Office of Special Needs Assistance Programs):[11]
   "Structure discussed for the 1st time in the regulation. Because it is now discussed in a regulation, not just in the NOFA, it means that it is subject monitoring. Which means that HUD can come out and monitor on any of the regulations – including how the CoC is established and operates."

   1.   Requirements for establishing the CoC (578.5)

(a)   <u>What is the Continuum of Care?</u>[12]
   - In order to carry out the primary purpose of the CoC Program, HUD requires representatives of relevant organizations to form a Continuum of Care to serve a specific geographic area.

     o These include nonprofit homeless providers, victim services providers, faith-based organizations, governments, businesses, advocates, public housing agencies, school districts, social service providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement, and organizations that serve homeless and formerly homeless veterans, and homeless and formerly homeless individuals.

(b)   <u>CoC Board Requirements</u>[13]
   - The CoC Program interim rule requires that CoC boards must:
     o Include at least one homeless or formerly homeless individual;
     o Represent the relevant organizations and projects serving homeless subpopulations within the CoC's geographic area – such as:
        ✓ Persons with substance use disorders;
        ✓ persons with HIV/AIDS;
        ✓ veterans;
        ✓ the chronically homeless;
        ✓ families with children;
        ✓ unaccompanied youth;
        ✓ the seriously mentally ill; and
        ✓ victims of domestic violence, dating violence, sexual assault, and stalking.

   - According to Tiffani Moore (Desk Officer, HUD Office of Special Needs Assistance Programs), *"HUD has specifically requested comments on the following Board requirements:*
     o *Composition of the chair or co-chair on your board,*
     o *Composition of an uneven number of individuals on the board serving staggered terms,*
     o *Members from both the public and private sector, and*
     o *Representation by an ESG recipient."*[14]

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[11]CoC Program: Overview of the Interim Rule and FY 2012 Competition Webinar, July 2012
[12]Introductory Guide to the Continuum of Care (CoC) Program, 2012
[13]Introductory Guide to the Continuum of Care (CoC) Program, 2012
[14] Implement the HEARTH Act: The New Continuum of Care Program Webinar, July 2012

(c)   <u>CoC Subcommittees and Workgroups</u>[15]
- The CoC may appoint additional committees, subcommittees, and work groups as needed to carry out its work.
    - o Examples can include: Application Review, HMIS and PIT Count, Performance Measurement, Centralized Intake, Discharge Planning

- All committees, subcommittees, and work groups' responsibilities must be documented in the governance charter that is reviewed and approved annually by the CoC.

(d)   <u>Deadline</u>[16]
- CoCs have <u>two years</u> from the effective date of the CoC Program interim rule to establish aboard, which is required to meet the governance requirements detailed in the regulations.

2.   Responsibilities of the CoC (578.7)

A CoC's 3 primary responsibilities under the CoC Program interim rule include the following:
1.   Operating the Continuum of Care
2.   Designating and operating an HMIS
3.   Develop a plan for the CoC

(a)   <u>CoC Responsibility #1: Operating the Continuum of Care</u>(578.7(a))

The CoC Interim Rule establishes 7 key responsibilities within the operation of the CoC. Each of these must be thoroughly documented in the CoC's governance charter and be transparent. These responsibilities include:[17]

(1)   Regular Meetings – at minimum, conduct semi-annual meetings of the full membership
- These meeting should include published agendas.
- The CoC may conduct membership meetings more often for purpose of activity planning, ongoing communication, staff training.
- Issue a public invitation for new members, at least annually, from within the CoC's geographic area.

(2)   Board Selection& Committees
- Adopt and follow a written process to select a board.
- Reviewed, updated, approved by Continuum at least once every 5 years.
- The board must meet all requirements as specified in 24CFR part 578.5(b).
- Appoint additional committees, subcommittees, or work groups.

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[15] Establishing and Operating a Continuum of Care, 2012
[16] Introductory Guide to the Continuum of Care (CoC) Program, 2012
[17] Establishing and Operating a Continuum of Care, 2012

(3) Governance Charter
- Develop and follow a governance charter that includes all procedures and policies needed to comply with 24 CFR part 578.5(b) & with HMIS requirements as prescribed by HUD
- Should detail functions of the CoC board, CoC's committee structure and roles, staff roles, and the process for amending the charter.
- Must be done in consultation with the HMIS lead
- A code of conduct and recusal process for the board, its chair(s), and any person
- Must develop, follow, and update annually

➢ According to Ann Oliva (Director, HUD Office of Special Needs Assistance Programs):[18]
"Whenever we [HUD] say 'develop written standards,' this includes actually following the written standards that you develop at the local level."

(4) Monitoring
- Consult with recipients and sub-recipients to establish performance targets appropriate for population and program type;
- Monitor the performance of recipients and sub-recipients;
- Evaluate outcomes; and
- Take action against poor performers.

➢ According to Ann Oliva (Director, HUD Office of Special Needs Assistance Programs):[19]
"We actually explicitly said at the National Alliance Conference is that these discussions that you're gonna start having locally really need to start holding recipients accountable for performance. And I would actually go a step further and say that just because the program isn't hurting anybody, just because they move people through a two year program that is extremely service enriched and they have okay outcomes doesn't mean that they're the most effective and efficient use of your funding."

"Obviously you want to deal with poor performers first but beyond that there's also other types of assessments that you should do at the project level based on what your standards are for performance."

➢ According to Jonathan Harwitz (Deputy Chief of Staff for Budget & Policy, Office of the HUD Secretary):[20]
"I think the major goals of the HEARTH Act was really to move this to a performance based system and I would say good intentions aren't enough. That basically we have to hold folks accountable for performance, and the Act is clear about what those performance measures should look like and as Ann [Ann Oliva] said simply not doing damage is not a reason to continue funding a program. We simply don't have the resources to enable that to continue."

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[18] Implement the HEARTH Act: The New Continuum of Care Program Webinar, July 2012
[19] HUD's Homeless Assistance Overview of FY 2012 Funding and HEARTH Update Webinar, July 2012
[20] HUD's Homeless Assistance Overview of FY 2012 Funding and HEARTH Update Webinar, July 2012

(5) Evaluation
- Evaluate and report to HUD outcomes of ESG and CoC-funded projects

➤ According to Ann Oliva (Director, HUD Office of Special Needs Assistance Programs):[21]
"What do you do once you have asked those questions and how do you know that what you're doing isn't working? It is imperative that you look at your data and use your data locally to really understand the flow within your system. You want to look at how long people are staying, what their outcomes are, whether a lot of them are returning back to homelessness after they have exiting the system. This leads you to whether a project is having a problem or the system as a whole is having a problem."

(6) Centralized or Coordinated Assessment[22]
- In consultation with recipients of ESG, establish and operate either a centralized or coordinated assessment system that provides an initial, comprehensive assessment of the needs of individual and families for housing and services.
- The Continuum must develop a specific policy to guide the operation of the centralized or coordinated assessment system on how its system will address the needs of DV when they are seeking services/services from non-victim service providers.
- Minimum Requirements:[23]
  - Cover the geographic area served by CoC
  - Be easily accessed by individuals & families seeking housing & services
  - Be well advertised
  - Include a comprehensive and standardized assessment tool

➤ According to Ann Oliva (Director, HUD Office of Special Needs Assistance Programs):
"We talked about this at length at the National Alliance Conference, but it is important for our grantees to understand why we are requiring a centralized or coordinated assessment system. And you know at the end of the day, the Federal Strategic Plan is our first national plan on how to prevent and end homelessness by 2015 or 2020 depending on the population. But that plan will NEVER work unless, at the local level, we are really matching families and individuals with the kinds of interventions that are best suited to their needs. So this is really a step forward in the maturity of the CoC systems all over the country. We are working to move us into the next phase of CoC development. And this is something that is going to be key as we move forward."[24]

"The Federal government has a plan to prevent and end homelessness with specific goals and housing goals related to those but that relies on certain assumptions . . . and we can't reach those goals unless you all at the local level can appropriately assess the needs of people who are coming in and place those folks into housing and services that are appropriate for their needs."[25]

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[21]HUD's Homeless Assistance Overview of FY 2012 Funding and HEARTH Update Webinar, July 2012
[22]Introductory Guide to the Continuum of Care (CoC) Program, 2012
[23]Establishing and Operating a Continuum of Care, 2012
[24]Implement the HEARTH Act: The New Continuum of Care Program Webinar, July 2012
[25]HUD's Homeless Assistance Overview of FY 2012 Funding and HEARTH Update Webinar, July 2012

(7)   Written Standards
- In consultation with recipients of ESG, establish and consistently follow written standards for providing CoC assistance.
- The coordinated assessment system must incorporate these standards when evaluating and referring potential program participants.
- At a **minimum**, these written standards must include:
    o Policies & procedures for evaluating individuals' and families' <u>eligibility</u> for assistance under this part;
    o Policies & procedures for determining and prioritizing which eligible individuals and families will receive <u>transitional</u> housing assistance;
    o Policies & procedures for determining and prioritizing which eligible individuals and families will receive <u>rapid rehousing</u> assistance;
    o Standards for determining what <u>percentage or amount of rent</u> each program participant must pay while receiving rapid rehousing assistance;
    o Policies & procedures for determining and prioritizing which eligible individuals and families will receive <u>permanent supportive</u> housing assistance.

➢ According to Brett Gagnon (Desk Officer, HUD Office of Special Needs Assistance Programs):[26]
"Some of the types of activities you can do under the CoC program are similar to what you can do in the ESG program and where those are operating jointly in the COC's geographic area we [HUD] wants to be sure that clients are being assessed the same way for the same types of assistance across the entire geographic area."

(b)   <u>CoC Responsibility #2: Designating and operating an HMIS</u> (578.7(b))

A HMIS is an invaluable tool for communities and HUD to develop better information on the nature of homelessness, the number of people experiencing homelessness, the existing patterns in housing programs and services, and the effectiveness of programs and services in addressing homelessness. The CoC is accountable for the HMIS, even if another organization is designated to operate it.[27]

The CoC Program Interim Rule places greater emphasis on the CoC's role in monitoring HMIS implementation and compliance with applicable HMIS regulations and Notices.

The CoC is responsible for the following HMIS functions:[28]
- Designate a single HMIS
- Select an eligible applicant to manage the CoC's HMIS (called the HMIS Lead)
- Monitor recipient and sub-recipient participation in the HMIS (ensure consistent participation)
- Review, revise, and approve a privacy plan, security plan, and data quality plan for HMIS
- Ensure that the HMIS is administered in compliance with requirements prescribed by HUD

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[26]Implement the HEARTH Act: The New Continuum of Care Program Webinar, July 2012
[27]Establishing and Operating a Continuum of Care, 2012
[28]Introductory Guide to the Continuum of Care (CoC) Program, 2012

(c)   <u>CoC Responsibility #3: Develop a plan for the CoC(578.7(c))</u>[29]
- (1)   System Coordination
  - Coordinate the implementation of a housing and service system within its geographic area that meets the needs of the homeless individuals (including unaccompanied youth) and families.
  - At minimum, such system encompasses the following:
    - o Outreach, engagement, and assessment;
    - o Shelter, housing, and supportive services;
    - o Homeless Prevention strategies.

➢ According to HUD:[30]
CoC program funding is not sufficient to support a comprehensive system for addressing homelessness, additional funding from dedicated homeless programs – including ESG and mainstream resources are need to carry out a CoC's homelessness activities. Coordination of these funding streams and related services lead to a stronger community response to homelessness.

➢ According to Jonathan Harwitz (Deputy Chief of Staff for Budget & Policy, Office of the HUD Secretary):[31]
"The resources in your inventory should not be driving the interventions that homeless individuals and families get. What should be driving [the interventions] are what they need to end homelessness."

➢ According to Ann Oliva (Director, HUD Office of Special Needs Assistance Programs):
"I want to be clear. We are not saying that transitional housing is bad. . . But where you have a program designed that may be not quite fitting the needs of the folks in your community, can you … make it more like a rapid rehousing kind of model so that you are able to have good outcomes but serve more people in the same amount of time."[32]

"I know there's a concern at the community level that HUD is somehow getting rid of transitional housing or we're promoting communities to not fund transitional housing. I want to be clear on this particular issue. There are many types of transitional housing that are appropriate for the type of population they are serving. The ones that come to me off the top of my head are substance abuse treatment is completely appropriate for transitional housing. Youth programs often work better in the transitional housing setting. But what we are asking folks to do and what are themes you will see through [HUD's] presentations on the new regulations is to really think about whether a two year service intensive traditional housing model for folks who might have lower barriers to housing is the best model, and the most effective use of resources at the local level. We are asking folks to be strategic, not to wholesale give up their transitional housing stock."[33]

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[29]Introductory Guide to the Continuum of Care (CoC) Program, 2012
[30]Establishing and Operating a Continuum of Care, 2012
[31]HUD's Homeless Assistance Overview of FY 2012 Funding and HEARTH Update Webinar, July 2012
[32]HUD's Homeless Assistance Overview of FY 2012 Funding and HEARTH Update Webinar, July 2012
[33]Implement the HEARTH Act: The New Continuum of Care Program Webinar, July 2012

(2) Point-in-Time Count
  - Planning for and conducting a Point-in-Time count of homeless persons, at least biennially
  - Must meet the following requirements:
    - o Identify the number of homeless persons who are living in a place not designed or ordinarily used as regular sleeping accommodations for humans must be counted as unsheltered homeless persons.
    - o Identify the number of persons living in emergency shelters and transitional housing projects must be counted as sheltered homeless persons.
    - o Identify other requirements established by HUD by Notice, including the annual FY CoC Program NOFA.

(3) Annual Gaps Analysis
  - Conduct an annual gaps analysis of the homeless needs and services available in geographic area.
  - This includes a housing inventory.

(4) Consolidated Plan Information
  - Provide information required to complete the Consolidated Plan(s)

(5) ESG Consultation
  - Consult with State and local government ESG recipients within its geographic area regarding the allocation of ESG funds and the reporting on & evaluating the performance of ESG recipients and sub-recipients.

3. Process of preparing an application for funds (578.9)[34]

A major function of the Continuum of Care is to prepare and oversee the development and submission of an annual application for Continuum of Care Program funds.

The process must involve the steps described below.
(1) Collaborative Application Process
  - Design, operate, and follow a collaborative process for developing applications and approving the submission of applications
  - The collaborative applicant is the *only* applicant permitted to apply for CoC planning funds.
(2) Funding Priorities
  - Establish priorities for funding projects in its geographic area
  - Selection must be transparent & inclusive and based on the standards indicated in 24 CFR Part 578.19(b).
(3) Collaborative Applicant vs. Unified Funding Agency

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[34]Introductory Guide to the Continuum of Care (CoC) Program, 2012

- Determine if one application for funding will be submitted for all projects within the geographic area or if more than one application will be submitted.

Regardless of the number of applicants submitted or the entity designated as the collaborative applicant, the CoC remains the entity accountable for approval of the CoC Program application and for fulfilling the responsibilities listed in Subpart B.

5. Remedial actions that HUD may take for CoCs that do not meet the criteria of the Act (578.13)[35]

If HUD finds that the CoC for a geographic area does not meet the requirements of the HEARTH Act or the CoC Interim Rule, HUD may take the following remedial actions, such as designating a replacement CoC, designating a replacement collaborative applicant, or accepting applications from other eligible applicants within the CoC's geographic area. HUD must approve 30-day prior written notice to the CoC and the collaborative applicant and give them an opportunity to respond before taking any of these measures.

D. Program Requirements (Subpart F)

1. Highlighting Critical Changes from the Supportive Housing Program (SHP) and Shelter Plus Care Programs.[36]

(a) <u>Match</u> (578.73)
The match requirements under the Continuum of Care Interim Rule are simplified from the Supportive Housing and Shelter Plus Care programs. All eligible funding costs, except leasing, must be matched with no less than a 25 percent cash or in-kind contribution. No match is required for leasing. The match requirements apply to project administration funds, CoC planning costs, and UFA costs, along with the traditional expenses—operations, rental assistance, supportive services, and HMIS. Match must be met on an annual basis.

For an in-kind match, the recipient or sub-recipient may use the value of property, equipment, goods, or services contributed to the project, provided that, if the recipient or sub-recipient had to pay for such items with grant funds, the costs would have been eligible. If third-party services are to be used as a match, the recipient or sub-recipient and the thirdparty service provider that will deliver the services must enter into a memorandum of understanding (MOU)—before the grant is executed—documenting that the third party will provide such services and value towards the project.

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[35]Implement the HEARTH Act: The New Continuum of Care Program Webinar, July 2012
[36]Introductory Guide to the Continuum of Care (CoC) Program, 2012

(b)   <u>Lease and Occupancy Agreement Requirements</u>
Under the CoC Program interim rule, recipients and sub-recipients must sign occupancy agreements or leases (or subleases) with all program participants residing in housing, including Transitional Housing.

- For permanent housing, program participants must enter into a lease agreement for a term of at least one year, which is terminable for cause. The lease must be automatically renewable upon expiration for a minimum term of one month.

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

(c)   <u>Housing Quality Standards</u> (578.75 (b))
All housing leased with CoC Program funds or where rental assistance payments are made with CoC Program funds must meet applicable Housing Quality Standards.

- Before any assistance will be provided on behalf of a program participant, the recipient or sub-recipient 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:
  o The owner corrects any deficiencies within 30 days from the date of the initial inspection AND
  o The recipient or sub-recipient verifies that all deficiencies have been corrected.

Recipients/subs must inspect all units at least annually during the grant period to ensure that the units continue to meet HQS.

2.   Summary of Additional Program Requirements[37]

(a)   <u>Supportive Services Agreement</u> (578.75 (h))
In housing programs, recipients and sub-recipients may require program participants to take part in supportive services provided through the project as a condition of continued program participation, as long as the services <u>are not disability-related</u>.

- Examples of disability-related services include, but are not limited to, mental health services, outpatient health services, and provisions for medication, which are provided to a person with a disability to address a condition caused by the disability.[38]

Only projects whose primary purpose is to provide substance abuse treatment services may require program participants to take part in substance abuse treatment services as a condition of continued program participation.

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[37]Introductory Guide to the Continuum of Care (CoC) Program, 2012
[38]*24 CFR Part 578*

➢ According to Ann Oliva (Director, HUD Office of Special Needs Assistance Programs):[39]
"It's important for you all to read this part of the rule and you know that "not disability related" is underlined for a reason. That's really a key part of the supportive services agreement requirement."

➢ According to Brett Gagnon (Desk Officer, HUD Office of Special Needs Assistance Programs):[40]
"And that it is an optional requirement. So your project does not have to implement supportive service agreements but you may choose to."

On page 45436 of the Federal Register:[41]
For example, if a Continuum of Care recipient operates a transitional housing program with substance abuse treatment services, the recipient may require program participants to participate in those services. By contrast, in a program that offers services but whose purpose is not substance abuse treatment, a recipient may not require a person who is an alcoholic, for example, to sign a supportive service agreement at initial occupancy stating that he or she will participate in substance abuse treatment services as a condition of occupancy. All program participants must, however, meet all terms and conditions of tenancy, including lease requirements. If, as a result of a person's behavior stemming from substance use, a person violates the terms of the lease, a recipient may consider requiring participation in services or any other action necessary in order for such a person to successfully meet the requirements of tenancy.

(b)   Program Fees
Programs are no longer permitted to impose program fees on program participants.

(c)   Timeliness(578.85)
Construction must begin within 9 months of signing the grant agreement and must be completed within 24 months of signing the agreement; activities in the facility must begin within 3 months of completing construction.

Recipients must distribute funds to sub-recipients (in advance) no later than 45 days after a request and draw down funds at least once per quarter.

➢ According to Ann Oliva (Director, Office of Special Needs Assistance Programs):[42]
"It is painful for us here at the department to recapture as much money as we do in any given year. That means grantees are . . . consistently giving back money to the federal government. Most times we can't actually use that money, that money has to go back to the treasury. So it has been lost to homeless services in general and that is something that's painful and unpleasant for all of us."

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[39]Implement the HEARTH Act: The New Continuum of Care Program Webinar, July 2012
[40]Implement the HEARTH Act: The New Continuum of Care Program Webinar, July 2012
[41]*24 CFR Part 578*
[42]HUD's Homeless Assistance Overview of FY 2012 Funding and HEARTH Update Webinar, July 2012

"One of the tools the HEARTH Act provides, is that because the Continuum of Care is formalized and will actually have a relationship with the department, we can actually provide the CoC with the information it needs to do an analysis locally of how their grantees are doing in terms of drawdown and expenditure rates. . . So, rally not just looking at performance in terms of outcomes and outputs but really looking at financial performance as well because using your money as efficiently as possible is gonna be a message that you continue to hear from us."

(d)   Termination(578.91)

Termination is expected to be limited to only the most severe cases.Projects providing Permanent Supportive Housing to "hard-to-house" populations should exercise judgment and examine all extenuating circumstances when determining if violations are serious enough to warrant termination.

➢ According to Ann Oliva (Director, HUD Office of Special Needs Assistance Programs):[43]
"I would just urge recipients and sub-recipients who are especially providing PSH to hard to house populations to exercise judgment and caution. They are hard to house populations so we really don't want to terminate assistance unless it's really warranted." In addition, Brett states, *"the regulation clarifies, if you terminate assistance to a program participant, it doesn't mean that you can't let them come back. They can come back to the same project, to another project within the CoC, It doesn't mean you have to bar them forever."*

"I would suggest that CoC really look at developing due process procedures that are continuum-wide. That will ensure <u>folks are receiving the same due process</u> at every project across the continuum."

(e)   Retention of Assistance

Non-disabled household members of a qualifying (i.e., disabled) PSH resident may retain assistance until the end of the lease term in the event of the qualifying resident's death, long-term incarceration, or long-term institutionalization.

(f)   Recordkeeping (578.103)

The CoC Interim Rule requires recordkeeping by the CoC to demonstrate compliance with the CoC Interim Rule. The documentation and recordkeeping requirements are specified for each CoC responsibility. In addition, the CoC Interim Rule specifies client and project records that have long been required for monitoring.

➢ According to Ann Oliva (Director, HUD Office of Special Needs Assistance Programs):[44]
"Recipients and sub-recipients must establish and maintain standard operating procedures to ensure that the funds are used in accordance with the rule and you have to maintain sufficient records so that when HUD comes out and monitors you, we can determine whether you are compliant with the regulations."

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[43]Implement the HEARTH Act: The New Continuum of Care Program Webinar, July 2012
[44]Implement the HEARTH Act: The New Continuum of Care Program Webinar, July 2012

(g)　　Participation of homeless individual (578.75 (g))
Each recipient and sub-recipient must provide for the participation of not less than 1 homeless individual or formerly homeless individual on the board of directors or other equivalent policy making entity of the recipient or sub-recipient.

Resources

CoC Governance Crosswalk of Changes: Continuum of Care (CoC) Program, Supportive Housing Program (SHP), Shelter Plus Care (S+C) Program Regulations, November 2012: https://www.onecpd.info/resource/2718/coc-governance-crosswalk-of-changes/

CoC Program: Overview of the Interim Rule and FY 2012 Competition Webinar, July 10, 2012: https://www.onecpd.info/resource/2040/coc-program-overview-interim-rule-fy-2012-competition-webinar/

CoC Program: Understanding the Role of the Collaborative Appliance Webinar, December 11, 2012: https://www.onecpd.info/resource/2724/coc-understanding-the-role-of-the-collaborative-applicant-webinar/

Establishing and Operating a Continuum of Care, 2012: https://www.onecpd.info/resource/2717/establishing-and-operating-a-coc/

Homeless Emergency Assistance and Rapid Transitional to Housing: Continuum of Care Program, 24 CFR Part 578: https://www.onecpd.info/resource/2033/hearth-coc-program-interim-rule/

Homeless Programs Transitions Policies & Changes Webinar, December 18, 2012: https://www.onecpd.info/resource/2727/homeless-programs-transition-policies-and-changes-webinar/

HUD's Homeless Assistance Overview of FY2012 Funding and HEARTH Update Webinar, July 30, 2012: https://www.onecpd.info/resource/2042/fy-2012-funding-hearth-update-webinar/

Implement the HEARTH Act: The New Continuum of Care Program Webinar, July 27, 2012: https://www.onecpd.info/resource/2044/implementing-the-hearth-act-the-new-continuum-of-care-program-webinar/

Introductory Guide to the Continuum of Care (CoC) Program: Understanding the CoC Program and the requirements of the CoC Program Interim Rule, 2012: https://www.onecpd.info/resource/2036/introductory-guide-to-the-coc-program/