



THE REGIONAL STEERING COMMITTEE ON HOMELESSNESS AND HOUSING

Together we:

Identify common problems,
Search for useful solutions

Collectively we participate in:

- ◆ Policy development ◆ Training ◆ Information sharing
- ◆ Action strategies ◆ Program design

NOVEMBER 7, 2014 10:30 AM – 12:00 PM

TO ENTER THE CONFERENCE CALL

Dial 1-800-444-2801

Access Code: 9657900

1. **Continuum of Care NOFA Debrief:** With the close of the Continuum of Care NOFA Competition on October 30, come share your thoughts about this year's process. How did your community respond to the tight timeline, and what are some lessons learned?
2. **Preparing for the CoC Interim Rule Public Comment:** HUD has indicated that it intends to re-release the CoC Interim Rule for public comment sometime in the near future. After 2.5 years of implementation, what should HUD know about how the Rule has affected your community? What policies have worked well, and what would you like to see change? This conversation will lead to the development of a comment from the RSC to HUD.

Reminder & Brief Updates

- Our next meeting will be **in person** and is tentatively scheduled for Friday, February 6, 2014.

HUD COMPLIANCE ISSUES

#1) Fair Market Rent (FMR) Supplemental Calculation Adjustment Needed for Communities Experiencing 2 Consecutive Quarters of 5% Rental Increases

BACKGROUND: HUD’s determination of a community’s “fair market rent” (FMR) defines the ceiling amount program residents can pay to acquire housing in their local community. Because the FMR calculation includes a utility allowance, the amount HUD Continuum of Care programs participants may pay is actually less than the FMR; additionally, program participants can only move into units whose rent AND utility costs are less than FMR, and must move out if those costs rise above FMR. Further, in communities with rapidly escalating rents (like the SF Bay Area over the past 2 years), the calculated rents are based on rents that are a year or more old.

IMPACT: The low FMR adjustment hardly reflects the reality in the East Bay—or the greater Bay Area—housing market. The 2015 rate significantly reduces the proportion of local housing stock accessible to HUD program participants making it extremely difficult to locate housing below these FMR rates. In some cases, those living in housing whose landlords raise the rent above the local FMR must relocate to a lower cost unit.

ANALYSIS: In a steadily improving economy, the 2014 FMR increases ranged from \$143 to \$372 above the 2013 level – an increase of nearly 14%. The economy continued to improve and local rents have risen comparably, yet HUD’s 2015 FMR (for Contra Costa County, for example) provides an increase of only \$4 to \$12 per month – less than one-half of one percent – when the rental market for entry-level housing actually increased by well over 5%.

FY 2015 Fair Market Rent Documentation System

The following table shows the Proposed FY 2015 FMRs by unit bedrooms for Contra Costa County, California.

Year	Efficiency	One-Bedroom	Two-Bedroom	Three-Bedroom	Four-Bedroom
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Difference	\$4	\$5	\$7	\$9	\$12
% Change	0.4%	0.4%	0.4%	0.4%	0.4%
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Difference from 2014	\$143	\$173	\$217	\$303	\$372
% Change	13.8%	13.8%	13.8%	13.7%	13.7%

ACTION NEEDED: Support an amendment to HUD’s FMR calculation to allow for a supplemental calculation for FMR in communities experiencing more than 2 consecutive quarters of market rent increases exceeding 5% per quarter.

#2) Revert to Previous Allowance of Rent Revenue as Program Income

BACKGROUND: For decades, HUD has considered housing residents' rent payments the same as other outsiders' contributions to a project's revenue stream, and therefore eligible to be applied toward a grantee's "match" obligation. A HUD Information Bulletin (6/13/14) recently announced this long-standing policy has been reversed.

IMPACT: The first, and most significant, impact is the loss of rental income from program participants as grant matching funds. For permanent housing programs, this is a critical loss and could result in grantees' discontinuing HUD permanent housing programs. The second significant impact is that HUD's interpretive limitation on eligible match funds could be imposed on other types of revenues generated by the grantee to supplement grant awards. Narrowing the matching funds eligibility definition is among several changes that make it increasingly hard for grant recipients to operate effective programs.

ANALYSIS: Throughout 24 CFR Part 578, there are numerous references to "grant funds" provided by the Continuum of Care application process. The reference to 24 CFR Part 578.73 (b) cited in the memo excludes "Continuum of Care program funds" from being used as part of a grant recipient's "match" obligations. The 6/13/14 HUD Bulletin indicates that this conclusion was recently reached "by deduction" (emphasis added). However, there is no such exclusion mentioned in the applicable statute on "program income - 24CFR 578.97.

There is no reason that HUD could not utilize its specifically granted authority to treat program participants' financial contribution to the program the same as all other financial contributions from external sources – a practice it has allowed for decades. Instead it uses the same circular logic applied above in a recent Frequently Asked Question.

- "OMB Circular A-110 and HUD's Uniform Administrative Requirements (Parts 84 and 85) allow the use of program income as a match, but only if explicitly authorized in a regulation. The CoC Program Interim Rule does not explicitly authorize the use of program income as a match."
- "24 CFR Part 85.25(g)(3) states the program income may be used as match for units of government only when expressly authorized a regulation."
- "Though Part 84.24(b)(2) states that program income may be used to finance the non-federal share of a project, for program income to be used as match in a federal program, the awarding agency's regulation must indicate use to fulfill cost sharing or matching requirements. The CoC Program interim rule does not explicitly authorize the use of program income as match. Therefore recipients are prohibited from using program income as match in the CoC Program."

ACTION NEEDED: Support the restoration of rental income from program participants as eligible matching funds.

#3) Discontinue Match Requirements on Rapid Rehousing Rental Assistance Funding

BACKGROUND: The cost of leasing apartments in Continuum of Care Projects has historically been excluded from match requirements. However, transitional housing projects converting to rapid rehousing projects are required to match all costs—including leasing—while all other continuum of care projects don't require a match on leasing costs.

IMPACT: With this new requirement, it is much more difficult to convert standard transitional housing to a rapid rehousing project, as HUD policies promote; for example, converting one such program in the SHELTER, Inc. portfolio would increase this contract's match requirement by \$60,000.

ANALYSIS: HUD is treating the exact same costs differently between these two types of projects.

ACTION NEEDED: Support a change in the regulations to eliminate the match requirement on leasing costs for rental assistance costs for all HUD projects.

#4) Provide Cost-of-Living Adjustment (COLA) on HUD Grants

BACKGROUND: Except for a recent increase in housing and operating costs since the late 1990s, HUD grants have been essentially flat funded.

IMPACT: With program outcome expectations remaining the same (or increasing under the new Health Act requirements) even while the purchasing power of the grant declined by nearly 40%, grant recipients have no recourse but to reduce such support services as health, education, counseling and employment services that can make the difference between self-sustainability and continued dependence. As the population being served present increasingly complicated obstacles to stabilization, the loss of supplemental services makes it less likely that the clients will ultimately achieve self-sufficiency.

ANALYSIS: During the last fifteen years, the nation's inflation rate rose by 39.8%.

ACTION NEEDED: Support a request that HUD include an annual COLA in all Continuum of Care grants.

#5) Lift the Cap on Housing Repairs

BACKGROUND: HUD grants have long been permitted to be used to cover “the costs of day-to-day operation of the supportive services facility, including maintenance, repair, building security, etc.” (24 CFR 578.53). However, regulatory restrictions limit reimbursement to one-time cost of property repairs per participant “not to exceed one-month’s rent incurred at the time of a participant’s exit from a housing unit.” (24 CFR 578.51(j)) Further, HUD interprets this limitation on a per unit basis, not in the aggregate for the project.

IMPACT: Nearly all HUD SHP housing programs contain residents with high needs and disabilities. High need program residents tend to be hard on the facility and its appliances. Such a strict limitation on repair can result in the necessity for eviction when such costs total one-month’s rent. It also causes grantees to absorb excess damage costs which can result in thousands—and even tens of thousands—of dollars in unexpected and unsustainable costs.

ANALYSIS: HUD’s expansive interpretation of 24 CFR 578.51(j) to apply to all repair costs incurred during a resident’s tenancy is an unfair imposition on a grant recipients and significantly constrains our ability to help previously homeless remain in decent housing. The one-month limitation for damages upon exit is unrealistic, in any case, given the population served and the high cost to repair or replace appliances, hardware, cabinetry, etc. due to no fault of the grantee. It is not uncommon for repair costs to exceed by several thousand dollars the one month rent limitation. If HUD were to allow a grantee to aggregate the damage costs, the costs in excess of the limit could then be covered by the grant. For example, assume a 20 unit permanent housing project with \$1,000 monthly rents. On average 2 units might turn over per year. Assume tenant A exits with \$400 in damages and tenant B exits with \$1,600 in damages. Under current regulations, the grantee could charge \$400 against the grant for the damages to unit A but would be limited to recovering only \$1,000 for unit B and would have to absorb the \$600 shortfall from other agency unrestricted funds. If the damages were allowed to be aggregated, the \$600 balance (\$1,000 deposit less \$400 damages) from tenant A could be used to offset the \$600 in excess damages caused by tenant B (\$1,600 damages less \$1,000 deposit).

#6) Eliminate the Exclusion of Staff Training Costs as an Eligible Expense

BACKGROUND: The list of eligible expenses includes “the cost of assessing, arranging, coordinating and monitoring the delivery of individualized services to meet the needs of program participant(s)” - 24 CFR 587.53(e)(3). Those eligible costs include “the costs of labor ... directly incurred by the (grant) recipient in directly providing supportive services to program participants” - 24 CFR 578.53(17)(i). However, these same HUD regulations exclude staff training staff training costs as they relate to “the cost of obtaining professional licenses or certifications...” - 24 CFR 578.53(d) - a regulation widely cited as a basis for declaring all staff training costs as ineligible for reimbursement as a direct cost. The only place staff training is specifically allowable is in 24 CFR 578.59(a)(2), where “Training on Continuum of Care requirements” is an eligible project administrative cost. However, earlier in this same section it specifically says that administrative costs should “not include staff and overhead costs directly related to carrying out activities eligible under (program activities code sections) because those costs are eligible as part of those activities.” (emphasis added).

IMPACT: Grant recipients are being forced to choose: they must either (1) take on extremely traumatized, sometimes highly volatile program participants and have their staff maintain complex expenditure accounting and data collection responsibilities without being compensated for the training and development cost of these employees; or (2) fund that training from the barely adequate funding provided to cover grants management and fiscal audit expenses

ANALYSIS: Administrative costs are restricted to 10% of project grants, and competition penalties are imposed for grants that charge less than 7% - far below normal overhead costs for even the most efficient non-profit or for-profit corporation. HUD’s broad application of regulatory exclusion of training related to professional licensure would otherwise disallow costs associated with staff involvement in program planning/evaluation and intervention skills development. It is simply not reasonable to expect that grantees have to absorb all the costs of keeping and training a highly skilled staff to deliver services in a highly complex, regulated environment in accordance with all HUD standards and regulations.

ACTION NEEDED: Support the allowance of training expenses as an eligible reimbursable expense.

#7) Allowance of Nonprofits to Administer Rental Assistance

BACKGROUND: Currently nonprofits are temporarily able to administer rental assistance for FY 2014-15 under the proposed new rules.

IMPACT: Failure to adopt the interim rule would make it hard for nonprofits to want to switch projects over to rapid rehousing projects as HUD policies advocate. It would also increase cost and time involved in processing “rapid” re-housing, while unnecessarily increasing its cost.

ANALYSIS: If the new rules are NOT approved it would require that the only permissible entities allowed to manage rental assistance would be governmental agencies which, for people in crisis, would cause unnecessary delays due to the length of time needed for governmental agencies to administer emergency or urgent assistance.

ACTION NEEDED: Support the current interim rule which allows nonprofits to administer rental assistance.

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December 2, 2014

Open Letter to the Regional Steering Committee

Dear Committee Member:

For 28 years, SHELTER, Inc. has tried to be a resource to homeless and at-risk individuals and families in our community. We have strived to be an effective 'go-to' organization when local county government has needed leadership or operational support for the homeless continuum.

As you know, the federal government continues to place increasing burdens on the organizations delivering services under HUD's SHP funding and this year has proved to be exceptionally difficult. As a result, we are now beginning to have discussions, as a regular part of our internal review process, about whether we can continue to afford to operate HUD programs due to these increasing restrictions, limitations and funding requirements. It's becoming easier to see that in the future, there will be fewer and fewer agencies able to operate HUD programs under these conditions.

HUD will be opening public comment soon on their latest round of regulations and we believe that we have a brief window to make our voice heard. We would like to request your support on the following issues:

1. Fair Market Rent (FMR) Supplemental Calculation Adjustment Needed for Communities Experiencing 2 Consecutive Quarters of 5% Rental Increases
2. Revert to Previous Allowance of Rent Revenue as Program Income
3. Discontinue Match Requirements on Rapid Rehousing Rental Assistance Funding
4. Provide Cost-of-Living Adjustment (COLA) on HUD Grants
5. Lift the Cap on Housing Repairs
6. Eliminate the Exclusion of Staff Training Costs as an Eligible Expense
7. Allow Nonprofits to Administer Rental Assistance

Please review the attached position paper, make suggestions and/or edits and then work through HomeBase to articulate a region-wide position on these critically important issues. Obviously, a single grantee with an issue will not have a strong enough voice to effect change, but a regional voice could be.

Thank you for considering our request.



Timothy O'Keefe
Executive Director

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