

## MEMORANDUM

**To:** RSC

**From:** HomeBase

**Date:** July 23, 2010

**Re:** HEARTH Incentives For High-Performing Communities

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### Background

The Regional Steering Committee (“RSC”) has dedicated a part of each agenda to the effects of the Homeless Emergency Assistance and Rapid Transition to Housing Act (“HEARTH”) since it was signed into law on May 20, 2009. HEARTH amends and updates the McKinney-Vento Act of 1987.

<b>RSC Discussion of HEARTH: 2009-2011 Schedule</b>		
2009	<i>July 17, 2009</i>	<i>HEARTH in-depth look:</i> background, timeline, funding, CoC Program, ESG, admin/coordination, data, definitions
	<i>November 16, 2009</i>	Unified Funding Agencies
2010	<i>January 15, 2010</i>	Formula
	<i>April 16, 2010</i>	Definitions
	<i>July 23, 2010</i>	High-Performing Communities
	<i>October 2010</i>	Regulations (if published)
2011	<i>January 2011</i>	Topics may include the following: <ul style="list-style-type: none"><li>• CoC structure and admin/coordination</li><li>• ESG</li><li>• Program/system design</li><li>• Performance measurement</li><li>• CoC Program: grantee responsibilities</li></ul>
	<i>April 2011</i>	
	<i>July 2011</i>	
	<i>October 2011</i>	

### High Performing Communities

HEARTH includes a provision to award communities that are being particularly effective at ending and preventing homelessness with a High Performing Community designation.

- **Becoming a High Performing Community:** The Department of Housing and Urban Development (HUD) will designate ten High Performing Communities (for the first two years, possibly more thereafter) who meet the qualifications set forth by HUD through an annual application process. The statute specifies that HUD will make sure that they are comparing equivalent information across communities. Once awarded, the designation lasts for one year.

- **Requirements:** A High Performing Community must show that:
  - The mean length of episodes of homelessness in the Continuum of Care (CoC) is less than 20 days OR at least 10 percent less than in the year before (for the same population);
  - Of individuals and families who leave homelessness, fewer than 5 percent of such individuals and families become homeless again at any time within the next 2 years OR the percentage of such individuals and families who become homeless again within the next 2 years has decreased by at least 20 percent from the preceding year;
  - The community has actively encouraged homeless individuals and families to participate in homeless assistance services and included each person who sought services in Homeless Management Information Systems (HMIS) and the data used to apply for this status;
  - If the CoC has used CoC funding for housing relocation and stabilization services or rental assistance for people at risk of homelessness in previous years because it was designated a High Performing Community, that such activities were effective at reducing the number of individuals and families who became homeless in that community; AND
  - If the CoC chose to use CoC funding to serve people who are homeless under other Federal statutes (like the Department of Education [DOE]), that such programs were effective.
- **Community Benefit:** High Performing Communities have more flexibility in how they can use their CoC funds, but do not receive more funding. High Performing Communities will agree to assist HUD in sharing best practices.

**Discussion Questions:**

1. Would your community be able to meet any or all of the five elements of a High Performing Community?
2. Could your community track the data to show that you are meeting any or all of the five elements of a High Performing Community?
3. What sort of benefit would your community need to receive to compete for this designation?

## **Government Accountability Office Report on “Homelessness”**

Leading up to the creation of the HEARTH Act, much of the discussion and negotiations focused on the issue of what constitutes “homelessness.” The resulting definition in HEARTH includes some flexibility and compromises that may make the definition more difficult to document going forward (discussed below). Also as a result of this discussion about the definition, the Chair and Ranking Member of the House Financial Services Committee and several other members requested a study regarding various definitions of homelessness in Federal statute, which the Government Accountability Office (GAO) has released.

The HEARTH Act specifies that the Interagency Council on Homelessness will, within 6 months of

the release of this study, convene a meeting of representatives of: relevant Federal agencies and Congressional committees, local and State governments, academic researchers who specialize in homelessness, nonprofit housing and service providers that receive Federal funding, advocates, and homeless persons receiving housing or services under any such Federal program. At the meeting, the participants will discuss whether Congress should amend the definition of homelessness in HEARTH, including whether there is a compelling need for a uniform definition of homelessness under Federal law, the extent to which the differences in such definitions create barriers for individuals to accessing services and to collaboration between agencies, and the relative availability, and barriers to access by persons defined as homeless, of mainstream programs. After which, the resulting recommendations (including majority and dissenting recommendations) will be submitted to the relevant committees of Congress.

## **GAO Report**

The GAO considered following issues in its study:

1. The availability, completeness, and usefulness of federal data on homelessness
2. The extent to which research identifies factors associated with experiencing homelessness
3. How differences in definitions impacts the effectiveness of programs serving those experiencing homelessness

The GAO found that HUD, the Department of Health and Human Services (HHS), and DOE data are incomplete and fail to monitor demographics over time. Different definitions used by each department create disparities in homeless counts; for instance, HUD would not include families living with others as a result of economic hardship, whereas DOE would consider this population homeless.

Many people interviewed (which include government officials, service providers, advocates, and researchers) stated that narrow or varying definitions across agencies create challenges to providing services to those experiencing homelessness and complicate interagency attempts at collaboration. This problem also poses issues for communities seeking to plan strategically for housing needs, as a failure to collaborate at the federal level muddles the effective provision of key resources.

## **GAO Findings**

### **1. Shortcomings in Federal Data Have Limited the Understanding of the Extent and Nature of Homelessness**

The GAO determined that Federal data on homelessness has limited usefulness because homeless people are transient, data requirements are not comprehensive, and data analysis requires additional resources. The GAO noted the following issues:

- *Point-in-Time (PIT)*: HUD's homeless point in time census has flawed methodology, but the GAO noted information that indicates it is improving. The GAO pointed out that communities receive no funding to complete the census.
- *Federal data*: Federal data primarily or only captures clients served by federally funded programs, excluding those assisted by non-profits or who do not access services.
- *Data systems*: Unless they have signed privacy protection agreements and are using the same HMIS, data sharing between CoCs is difficult. Clients can be in several HMIS in different

CoCs and thus double-counted; the same is true for DOE data. The report discusses problems with HMIS design and implementation. GAO noted that HUD has incentivized HMIS participation and data quality. In addition, HUD, HHS, and education data systems generally do not share data.

- *Doubled-Up*: The report points out that HUD's counts do not include families living with others as a result of economic hardship, "doubling-up." The GAO looked at other data to try to determine the impact of changing the definition to include this population but was unable to reach a conclusion.
- *Mainstream Data*: The report stated that data from mainstream programs could improve understanding of homelessness, but many mainstream programs do not collect that information. Public Housing Authorities (PHA), the Department of Labor's (DOL) Workforce Investment Act (WIA) program, many foster care systems, the United States Department of Agriculture's (USDA) Supplemental Nutrition Assistance Program (SNAP), Headstart and Ryan White are among the programs that do generally collect data. Temporary Assistance for Needy Families (TANF) and Medicaid data varies by state (28 states do, almost all indicated it is not burdensome or costly to collect). At the same time, Community Services Block Grant, Social Services Block Grant, Maternal and Child Health Block Grant, and the Children's Health Insurance Program provide HHS with program reports, but do not include data on how many clients experience homelessness. Community Development Block Grants (CDBG) often funds services benefitting the homeless, but grantees do not track the number of homeless served by the program.

## **2. Definitional Differences and Data and Methodological Issues in Research Studies Hinder Development of Comprehensive Understanding of Factors Associated with Homelessness**

The vast majority of the 45 research studies analyzing factors associated with homelessness reviewed by the GAO employed varying definitions of homelessness making them difficult to compile or compare. The methodology of many studies also meant that the conclusions are mostly not predictive or able to be generalized. Only 1/3 of the studies considered structural issues within the study's structure. Despite these issues, some credible research revealed this information on homelessness:

- Availability of affordable housing reduced the odds of families experiencing homelessness and doubling up. Personal factors like access to small loans and childcare, having a strong family and friend support network, living longer in a given neighborhood, and receiving public assistance were also associated with lowered odds of experiencing homelessness.
- Families with higher incomes and access to housing assistance had a reduced likelihood of experiencing homelessness. Physical and mental problems, reports of domestic violence, and substance abuse issues appeared to place individuals at a higher risk for homelessness.
- Relatively small changes in housing market conditions could have substantial effects upon homelessness rates, implying that comparatively minor increases in housing vacancy rates, combined with small decreases in market rents, could significantly reduce homelessness.
- Poverty levels strongly related to the number of persons experiencing homelessness in an area.
- Several studies found factors such as running away from home, being in foster care, having a dysfunctional family, or being sexually molested as a child increased the odds that an adult would experience homelessness. Conversely, another study found certain childhood experiences, including residential stability, adequacy of income, dependence on public aid,

family violence, and parental criminality/mental illness/substance abuse, were not significantly associated with adult homelessness.

- Studies about using doubled up status to predict street homelessness were inconclusive and the differences between doubled up and street homeless populations differed between studies.

### **3. Definitional Issues Have Posed Challenges for Service Providers and Make Collaborating at Local and Federal Levels More Difficult**

Definitional differences have limited providers' ability to serve certain populations effectively. Families and youths living in some precarious situations that had similar or greater needs were ineligible for federal assistance under a narrow definition of homelessness. Youth and families have been excluded from chronic homelessness programs from which they could have benefited. Also, differences in housing condemnation procedures can affect who is "homeless."

Sometimes, getting one service precludes someone from getting another service for which they would otherwise have qualified. For instance, veterans obtaining housing vouchers through Veterans' Affairs Supportive Housing (HUD-VASH) no longer meet the narrow statutory definition of homelessness under which they would be eligible for job training funded by the Homeless Veterans Reintegration Program. However, if veterans apply for HVRP first, they can receive both benefits.

To make the situation more difficult, some state and local grantees receiving federal funds under mainstream programs develop their own local definitions of homelessness. Some interviewees stated that having multiple definitions can waste scarce resources, because some funds are used for eligibility verification rather than focusing resources on service provision.

#### **Benefits and Costs to One Definition**

Some officials stated that the question should not be over whether we adopt a narrow or broad definition, but whether we should adopt a single or multiple definitions. They felt that agreeing on a common, unitary definition could make providing services easier and less costly as well as reduce confusion for agencies and clients.

Advocates of multiple definitions say that it would allow programs to tailor services and prioritize them for specific populations. Some people expressed concern that certain resources should be targeted or that if the definition were to be broadened, limited resources would go to higher functioning populations as a matter of course. Countering researchers point out that a precise definition is necessary to ensure that the same kinds of people are being counted as homeless in different locations, which would be important for measuring program outcomes.

Some people who were interviewed noted that having a single definition does not paint the world of service provision in black and white, however. There could be alternate groups, like the "temporarily housed," that receive certain benefits such as the Education of Homeless Children and Youth Program, while being excluded from the programs dealing exclusively with severe homelessness. Such gradations could be used to better focus resources and track different populations.

## Collaboration

The GAO determined that collaboration is essential to reducing homelessness. Earlier GAO reports stated that establishing trust, setting common goals, communicating frequently, and developing compatible standards and procedures characterize effective interagency collaboration. National efforts to address homelessness have also focused on collaboration (e.g. CoCs, homeless liaisons, 10-year plans, Interagency Council).

Some people, who the GAO interviewed, reported difficulty collaborating with entities that use different definitions of homelessness. Local officials and researchers noted that having multiple definitions complicated the act of defining or measuring a common problem and obstructed the development of measures to assess progress in solving the problem. Disparities in information also eroded trust with the local community (e.g. the census may be reported to go down, while service providers are seeing an increase in need from a certain population).

Those interviewed noted that collaboration between federal programs is essential because solving homelessness requires that those in need receive a holistic package of services that might encompass the expertise and programs of different agencies. In a time of budget austerity, collaboration is needed to protect and best utilize scarce resources.

Many interviewees noted that the Interagency Council has up to now focused its collaborative efforts on increasing interagency work at the local, not federal level. Federal agencies generally fail to work together outside the Interagency Council. Those interviewed lamented that agencies focus on their own funding streams and do not coordinate dates for grants that could be combined to provide both housing and social services to those in need. Some interviewees also pointed out that *intra*agency collaboration also should improve, especially at HUD and HHS.

The tide is shifting, however, with the implementation of HUD-Veterans Affairs Supportive Housing (HUD-VASH) and the required participation by HHS's Projects for Assistance in Transition from Homelessness (PATH) programs in HMIS. In February 2010, HUD, HHS, and DOE drafted proposals for programs to collaboratively tackle homelessness for inclusion in the FY 2011 budget. This included a demonstration program that combines 4,000 HUD housing vouchers with HHS supportive services and a program that provides 6,000 HUD housing vouchers for families that calls on all three departments to be more fully engaged in stabilizing families.

The GAO report established that collaboration is much easier when agencies share a common definition of homelessness. For example, one DOE homeless liaison found it easier to work with DOE programs than CoC programs because of a lack of common definition. On the other hand, HUD, HHS, DOL, and the Department of Veterans Affairs (VA) have agreed on a single definition of "chronic homelessness," leading to engagement in coordinated efforts to address the needs of those falling under that category.

## The GAO's Conclusions

The GAO determined that Federal efforts to determine the extent and nature of homelessness and to develop effective programs to address homelessness have been hindered by limited data and lack of a common vocabulary. A common definition would allow agencies to track consistent data, to

better understand the nature of homelessness, and to communicate and collaborate more effectively. The GAO has made the following recommendations for executive action:

1. Develop joint federal guidance that establishes a common vocabulary for discussing homelessness and related terms to increase collaboration and coordination.
2. Determine whether the benefits of using this common vocabulary to develop and implement guidance for collecting consistent federal data on housing status for targeted and mainstream programs would exceed the costs.

#### **Discussion Questions**

1. What are your thoughts on the GAO's conclusions?
2. What is the best outcome of this report?

## **Draft Regulations on Definition of Homelessness**

Under HEARTH, HUD has until November 20, 2010 to issue regulations providing sufficient guidance to recipients of the Emergency Solutions Grant (ESG), CoC, Rural Housing Stability Assistance Programs' funds to allow uniform and consistent implementation of the homelessness definition requirements. HUD has released one set of regulations to this point about the definition of "Homeless."

HUD published draft regulations about Defining "Homeless" for HEARTH on April 20, 2010 (24 CFR Part 577, Docket No. FR-5333-P-01), requesting comments by June 21, 2010. HUD is currently reviewing comments received.

Generally, HUD was looking for any less burdensome alternatives to this proposal that would meet HUD objectives. HUD also solicited comments on whether the certifications required as evidence would be less of a burden if the statement and certificate were made on a HUD approved form. HUD proposed these definitions be used for ESG, CoC and Rural Housing Stability programs, and will repeat them in each set of regulations instead of cross-referencing.

*Please Note: These regulations are DRAFT regulations.  
They do not apply now, and will not apply for this year's funding competition.*

**The proposed definition of Homeless has four parts.**

### **Part 1: Straightforward "Homeless" Definition**

Definition of "homeless" includes an individual or family who lacks a fixed, regular, and adequate nighttime residence, including living on the street, in a shelter/transitional housing, or an individual who is exiting an institution where he or she resided for *90 days or less* and who resided in a shelter or place not meant for human habitation *immediately* before entering that institution;

### **Documentation of Homelessness for Part 1 of the Homeless Definition**

All grant recipients have to require documentation at intake and keep the records for five years after the grant ends.

- Acceptable evidence for people living on the streets or in shelter would include (a) certification by the individual or head of household seeking assistance, (b) a written observation by an outreach worker of the conditions where the individual or family was living, or (c) a written referral by another housing or service provider.
- Acceptable evidence for someone exiting an institution (see above definition) would be the documents in the bullet above PLUS a written referral from a social worker, case manager, or other appropriate official of the institution, stating the beginning and end dates of the time residing in the institution.

## **Part 2: Definition of “Homeless” for People Who Are Imminently Losing Housing**

An individual or family who will imminently lose their primary nighttime residence, provided that:

- (i) The primary nighttime residence will be lost within 14 days of the application for homeless assistance;
- (ii) No subsequent residence has been identified; and
- (iii) The individual or family lacks the resources or support networks needed to obtain other permanent housing;

## **Documentation of Homelessness for Part 2 of the Homeless Definition- “Imminent Loss of Housing” Status**

Documenting Imminent Loss of Housing has three parts:

- (1) Documentation of Loss of Housing
  - (A) A court order showing eviction within 14 days; or
  - (B) If living in hotel/motel (that the client is paying for), evidence of lack of resources to stay more than 14 days; or
  - (C) An oral statement by the individual or head of household that the owner or renter of their housing will evict them in 14 days. This oral statement must be documented (by self-certification) and verified (by (i) written/oral statement of the owner/renter or (ii) written record of the intake worker’s due diligence in attempting to obtain such a statement). (The documenting and verifying is required because the oral statement must be found credible, pursuant to the statute. HUD is attempting to keep documentation as minimal as possible.)
- (2) Self-certification that no subsequent residence identified
- (3) Self-certification or other certification of lack of financial resources/support networks to obtain housing.

## **Part 3: Definition of “Homeless” for “Unaccompanied youth and homeless families defined as homeless under other federal statutes”**

Definition includes unaccompanied youth and homeless families with children and youth defined as homeless under other federal statutes who do not otherwise qualify as homeless under this definition and:

- (i) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 91 days immediately preceding the application for homeless assistance; and
- (ii) Have experienced persistent instability as measured by three moves or more during the

90-day period immediately before applying for homeless assistance (HUD requests comments); and

(iii) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration, and a history of unstable employment.

### **Documentation of Homelessness for Part 3 of the Homeless Definition- “Unaccompanied youth and homeless families defined as homeless under other Federal Statutes”**

- For not having a lease, etc. for 91 days- Document by self-certification, written observation by an outreach worker, or referral by a provider;
- For persistent instability- Document by self-certification and any available supporting documentation, including: recorded statements or records obtained from each owner or renter, provider, or social worker, case worker, or appropriate official of a hospital or institution; or, if none of that is available, a written record of the intake worker’s due diligence in attempting to obtain these records;
- For barriers to housing- Acceptable evidence includes written diagnosis from an appropriate licensed professional, intake staff-recorded observation of disability (confirmed within 45 days by an appropriate licensed medical professional), employment records, department of corrections records, and literacy, English proficiency, and IQ tests.

### **Part 4: Definition of “Homeless” for Domestic Violence or other Life Threatening Situations**

Definition includes any individual or family who:

- (i) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member that has either taken place within the individual’s or family’s primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;
- (ii) Has no other residence; and
- (iii) Lacks the resources or support networks to obtain other permanent housing.

### **Documentation of Homelessness for Part 4 of the Homeless Definition- Domestic Violence or other Life Threatening Situations**

- Acceptable evidence includes an oral statement by the individual or head of household seeking assistance, written observation by the intake worker, or written referral by a housing or service provider, social worker, the hospital, or the police. If an oral statement is used, it must be documented by either a self-certification or a certification by the intake worker (it does not need to be verified).
- Upcoming proposed rules will include special confidentiality requirements re DV, similar to those already in place. *HUD welcomes* comments on what HUD should require.

The draft regulations also define “Homeless Individual with a Disability” (language mirrors statute except for clarification language about HIV/AIDS) and “Developmental Disability” (no change from statute, just imports language from elsewhere).

**Information collection requirements**—The Office of Management and Budget (OMB) Reporting and Recordkeeping was shown to be about 15 minutes per response.

### **Discussion Questions**

1. Did your CoC or agency submit comments on the regulations? What were your primary comments?
2. What do these draft regulations tell us about the direction HUD is taking in interpreting the HEARTH statute? What excites you? What concerns you?

*Please contact Bridget Kurtt DeJong, HomeBase Staff Lawyer,  
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