

Dated: July 19, 2016.

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Deputy Director, Bureau of the Census.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 578

[Docket No. FR-5476-N-04]

RIN 2506-AC29

Continuum of Care Program: Solicitation of Comment on Continuum of Care Formula

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice; request for comments.

SUMMARY: On July 31, 2012, HUD published an interim rule, for public comment, entitled “Homeless Emergency Assistance and Rapid Transition to Housing: Continuum of Care Program,” a program designed to address the critical problem of homelessness through a coordinated community-based process of identifying needs and building a system of housing and services to address those needs. HUD received 551 public comments on the interim rule. Approximately 42 of the public comments addressed the Continuum of Care formula, with the majority of these commenters seeking changes to the formula. With the interim rule now in place for 3 years, HUD seeks additional comment on the Continuum of Care formula.

Comment Due Date: September 23, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, 451 7th Street SW., Room 10276, Department of Housing and Urban Development, Washington, DC 20410-0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410-0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through

the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the www.regulations.gov Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the document.

No Facsimile Comments. Facsimile (fax) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410-7000; telephone number 202-708-4300 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Continuum of Care (CoC) Interim Rule

On July 31, 2012, at 77 FR 45422, HUD published in the **Federal Register** an interim rule to implement the CoC authorized amendments to the McKinney-Vento Homeless Assistance Act in the Homeless Emergency Assistance and Rapid Transition to

Housing Act of 2009 (HEARTH Act). The purpose of the CoC program is to promote communitywide commitment to the goal of ending homelessness; provide funding for efforts by nonprofit providers, and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to homeless individuals, families, and communities by homelessness; promote access to and effective utilization of mainstream programs by homeless individuals and families; and optimize self-sufficiency among individuals and families experiencing homelessness.

Section 427 of the McKinney Vento Act, as amended by the HEARTH Act, directs the Secretary to establish, by regulation, a funding formula that is based upon factors that are appropriate to allocate funds to meet the goals and objectives of the CoC program. As part of the interim rule, HUD codified the formula for establishing a CoC’s Preliminary Pro Rata Need (PPRN formula) that had been used for many years prior to the interim rule to establish a CoC’s PPRN. The PPRN formula is a combination of the formula used to award Emergency Solutions Grants (ESG) Program grant funds and Community Development Block Grant (CDBG) funds. Under the current PPRN formula, after a .2 percent set-aside for U.S. territories and insular areas, 75 percent of the total CoC allocation is distributed to ESG entitlement communities, generally comprised of large metropolitan cities and urban counties where homelessness is more concentrated, according to the CDBG formula. The remaining 25 percent of the CoC allocation is distributed to ESG non-entitlement communities according to the CDBG formula. Within this framework, the current CDBG formula is structured as a “dual formula” system. As set forth below, Formula A allocates funds to communities based on the following weighted factors: population, poverty, and overcrowding. Formula B assigns a different weighting scheme to an alternative menu of factors: population growth lag,¹ poverty, and pre-1940s housing.² Specifically, the existing CDBG formulas³ are weighted as follows.

¹ Population growth lag identifies slower growing communities or communities experiencing population loss as potential indicators of communities in decline and in need of development assistance.

² The share of housing units built before 1940 reflects the age of a community’s housing stock, a potential indicator of blight.

³ For non-entitlement communities, Formula B uses population instead of population growth lag.

Formula A	Formula B
25% * population	20% * population growth lag.
50% * poverty	30% * poverty.
25% * overcrowding ..	50% * pre-1940 housing.

Pursuant to this dual formula system, HUD calculates the funding amounts for each jurisdiction under both Formulas A and B and assigns the larger of the two grant calculations, less a pro rata reduction to ensure the total amount allocated is within the amount appropriated for funding.

Section 427 of the McKinney Vento Act, as amended by the HEARTH Act also allows HUD to adjust a CoC's formula to ensure that the formula amount is sufficient to renew existing projects in each CoC for one year, which is known as the Annual Renewal Demand (ARD). In the FY 2015 Continuum of Care Program NOFA, and in several previous Continuum of Care Program NOFAs, the amount of funding that CoCs were eligible to receive was based primarily on their ARD and the PPRN formula had little impact on the amount they were eligible to apply for. Only for a minority of CoCs that had a PPRN that was larger than their ARD did the PPRN formula affect funding, and in these cases, it only affected the amount available for new projects. The PPRN formula would only have a more significant impact on CoC funding if the amount of funding available for the CoC program nationally is significantly larger than the amount needed to renew existing projects for one year.

Several stakeholders indicated that the existing PPRN formula was not representative of the number of individuals and families experiencing homelessness in their geographic area. Therefore, the interim rule specifically sought comment on the PPRN formula and the process for determining a CoC's maximum award amount. HUD solicited public comment through November 16, 2012 and of the 551 public comments that HUD received, approximately 42 public comments were directed to the PPRN formula. The majority of the comments on the PPRN formula were from western States, counties, and cities, and indicated that the CDBG formula was not the appropriate basis for the PPRN formula because the CDBG formula utilizes urban blight, as reflected in the age of housing stock, and population growth lag factors to allocate funds, which may measure community development needs generally, but are not specifically tailored to measure homelessness. Other commenters stated that they opposed

reductions in funding for renewal projects.

As a result of the comments received, HUD has explored several alternative factors relevant to homelessness for potential inclusion in the PPRN formula and is re-opening the public comment period on the PPRN formula established in 24 CFR 578.17(a) of the interim rule for the purpose of seeking broader input on four proposed changes to the PPRN formula described in this section of the Notice before HUD selects the formula to include in the final rule. In developing the following proposals, HUD considered the many comments received in response to the formula in the interim rule, including those stating that the current formula utilizes factors that are not necessarily correlated with homelessness such as urban blight and population growth lag, and the request that the PPRN formula be based on updated factors that are intended to specifically measure homelessness.

In developing proposals for alternative factors to be included in the final formula, HUD sought to maintain the basic structure of the current PPRN formula, while investigating alternative data sources and measures to be included as formula factors. The characteristics of the data sources for the four proposed alternative formula factors were determined to be consistent with HUD's 2001 Report to Congress⁴ on measuring need for homeless grant funding. Namely, the data sources for the proposed factors⁵ are: (1) Relevant to measuring homelessness, (2) accurate, (3) timely, and (4) readily available for every jurisdiction. HUD chose not to incorporate the point-in-time count data into the formula because not all CoCs use the same methodology to conduct their counts—with some CoCs having stronger methodology than others—and because not all CoCs conduct annual PIT counts. Instead, HUD used an average of two years of PIT count data to compare how highly a factor being considered for the formula correlated with rates of homelessness. In this way, PIT counts helped quantify the relevance of potential formula factors to measuring homelessness, while

⁴ See "Report to Congress: Measuring "Need" for HUD's McKinney-Vento Homeless Competitive Grants," January 2001 at <https://www.hudexchange.info/resources/documents/MeasuringNeed.pdf>.

⁵ Including the decennial Census (population), American Community Survey 5-Year Data (poverty, overcrowding, pre-1940 housing, renter-occupied units, average gross rent, rent-to-income ratio, vacant rental units, and hybrid factor), and Comprehensive Housing Affordability Strategy 5-Year Data (affordability gap, rent-burdened extremely low-income households, and hybrid factor).

insulating potential formulas from the limitations of directly including PIT counts. Further, by using factors correlated with the PIT count, the proposed formulas mitigate the risk of data fluctuations in PIT counts that may be less prevalent in large Census datasets. Finally, since PIT counts are locally-generated and self-reported by jurisdictions seeking funding under the CoC program, direct inclusion of PIT counts into an allocation formula may create perverse incentives against objective PIT count methodologies.

Before considering any new factors, HUD reviewed the factors included in the existing PPRN formula—overcrowding, poverty, pre-1940s housing, and population—and their correlation to rates of homelessness. HUD conducted Pearson's Correlation analyses⁶ and found that three of these factors had a positive and statistically significant correlation with rates of homelessness. These were: (1) Overcrowding, with a .277 correlation; (2) poverty, with a .153 correlation; and (3) pre-1940s housing, with a .113 correlation. Population was not shown to have a significant correlation with rates of homelessness in a community. In addition to analyzing factors included in the current PPRN formula, HUD also considered several other potential factors related to housing markets, affordability, and demographics, as well as a hybrid factor that combined housing market and affordability measures. Understanding these factors, along with their correlation, is necessary to understanding the formulas being proposed for consideration.

Broadly speaking, the potential formula factors chosen by HUD for analysis, and described more fully below, represent important community-level determinants of homelessness identified in the research literature. Together, these factors represent three related categories of known determinants of homelessness: housing market factors, economic conditions, and housing affordability (which combines housing market and economic factors). Other categories of known community-level determinants of homelessness, such as climate factors or the robustness and quality of a community's safety net of social services for vulnerable populations, were found to lack the type of data

⁶ Pearson's correlation coefficients range from -1 to 1. A correlation coefficient of -1 or 1 indicates a perfect linear relationship (negative or positive, respectively) between two variables, while a correlation coefficient of 0 indicates a random relationship or no linear relationship between two variables.

measures (e.g., timely and readily available for each jurisdiction) necessary to be included as potential formula factors. Similarly, some demographic factors identified as possible correlates to homelessness were excluded from consideration due to data limitations. For example, population growth lag could not be readily calculated for every jurisdiction due to changes in geographic boundaries since 1960 that artificially affect population counts.

Potential Housing Market Factors: HUD considered the following potential housing market factors:

- **Renter-occupied units**—HUD explored this factor because renters generally experience higher housing instability than inhabitants of owner-occupied units. They are also more vulnerable to steep or sudden increases in rent, may be more economically unstable, and are subject to evictions as a result of non-payment of rent which tend to happen more quickly than the foreclosure process. For this factor, HUD found a .444 correlation between renter-occupied units as a percentage of all occupied housing units and rates of homelessness.

- **Average gross rent**—HUD explored this factor because several studies have found measures of “rent level” to be significantly correlated to higher rates of homelessness. However, this aggregate measure encompasses the entire rental market and may not be a good indicator of the rent pressures specifically faced by individuals and families experiencing homelessness or at risk of homelessness. For this factor, HUD found a .248 correlation between average gross rent (calculated by

dividing aggregate gross rent by the number of renter-occupied housing units) and rates of homelessness.

- **Vacant rental units**—HUD explored this factor because some studies have theorized that people are at higher risk of homelessness in tight rental markets; however, HUD found no significant correlation between rental vacancy rates (calculated by dividing the number of vacant rental units by total rental units) and rates of homelessness. Therefore, it was not used in any of the proposed formulas for consideration.

- **Affordability gap**—This factor was created to measure the gap between the demand for and supply of rental units that are both affordable and available to Extremely Low-Income (ELI)⁷ renter households. HUD considered this factor because ELI households have been shown to be at a greater risk of housing instability and homelessness. For this factor, HUD found a .310 correlation between this factor as a percentage of total housing units and rates of homelessness.

Potential Affordability Factors: HUD considered the following potential factors related to the cost of housing combined with renters’ ability to pay:

- **Rent-to-income ratio** is the comparison of how much rent people pay when compared to their income in the designated geographic area. HUD found a .288 correlation with rates of homelessness.

- **Rent-burdened ELI households** are those ELI households that pay more than 30% of their gross income for housing. HUD found a .336 correlation with rates of homelessness.

Hybrid Factor: HUD considered one factor, developed specifically for the purposes of this formula, that weighted

an affordability factor (rent-burdened ELI households) by a housing market factor (renter-occupied units), two variables found to be correlated with homelessness (with correlations of .336 and .444, respectively). This factor was calculated by multiplying the number of rent-burdened ELI households by the ratio of: the jurisdiction’s percentage of renter-occupied units divided by the national percentage of renter-occupied units. HUD found that this hybrid factor had a .393 correlation with rates of homelessness.

II. Proposed PPRN Formula Options for Public Comment

After reviewing the simple (bivariate) Pearson’s correlations between rates of homelessness and each of the above factors, HUD considered many different options for leveraging a combination of these factors into a formula that would better capture pro-rata need than any single factor on its own. HUD considered various factor weights as representing the relative magnitude of each factor’s effect on need within a particular formula combination. The proposed weights represent what HUD views to be reasonable options for weighting the relative magnitudes of factors within each formula option based on its simple correlational analyses and the theoretical relationships between sets of factors and homelessness documented in established research literature.

HUD seeks comment on the four formula options set out in the table below. HUD believes these options are better correlated with rates of homelessness at the local level than the current PPRN formula.

Formula A	Formula B	Formula C	Formula D
10% * population	25% * poverty	25% * population	25% * poverty
15% * poverty	25% * affordability gap	25% * poverty	25% * affordability gap
25% * affordability gap	25% * rent-burdened ELI house- holds.	50% * hybrid factor	50% * hybrid factor
25% * rent-burdened ELI house- holds.	25% * rental units.		
25% * rental units.			

None of these proposed PPRN formula options include the 75%/25% split between entitlement and non-entitlement communities that is a part of the current formula. In addition to comments on the proposed formulas set forth above, HUD welcomes comments on factors and corresponding weights that will target formula funding to urban

and rural areas most in need of homeless assistance, whether by ESG entitlement designation, population density considerations, or otherwise. In addition, HUD welcomes comments on whether any of the four proposed options should be combined into a dual or multi-formula system similar to the

dual calculation system utilized under the current PPRN formula.

HUD has posted, on its Web site, a listing of each CoC’s existing PPRN amount (as determined using the existing formula) as well as the amount that each CoC’s PPRN would be using each of these four proposed formulas. HUD has also published a tool on its

⁷ ELI households consist of families with incomes that do not exceed 30 percent of the area median income.

Web site that stakeholders can use to adjust the weights of the proposed factors and determine the resulting PPRN. This tool can be used to explore formula options, using the factors listed above, other than the four formula options already published by HUD on its Web site. Using all of this information, HUD seeks comment on the proposed formulas made available as well as any new formulas and factors relevant to the goals and objectives of the CoC program for HUD to consider.

Additionally, HUD acknowledges that each of the proposed formula options will result in the PPRN amounts of some CoCs decreasing. To prevent against a CoC losing a substantial amount of PPRN in a given year, HUD is considering including language that would prevent a CoC from losing more than a certain portion of their PPRN. For example, if a CoC's current PPRN amount is \$2.5 million and a newly adopted PPRN formula would result in the CoC's PPRN amount being reduced to \$1.7 million, HUD could consider language that would provide the CoC with more than \$1.7 million in PPRN, but less than \$2.5 million. HUD seeks comment on this proposal and also, what the appropriate amount or portion to be protected should be.

HUD welcomes other comments on how the CoC formula may be improved.

Dated: July 19, 2016.

Harriet Tregoning,

Principal Deputy Assistant Secretary for Community Planning and Development.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2016-0582

RIN 1625-AA09

Drawbridge Operation Regulation; Keweenaw Waterway, Houghton and Hancock, MI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating schedule that governs the US41 bridge, mile 16.0 over the Keweenaw Waterway between the towns of Houghton and Hancock, Michigan. The Michigan Department of Transportation (MDOT) has requested a review of the current operating schedule of the drawbridge due to a lack of

openings during the early morning hours. They have also requested to expand and modify the current winter operating schedule.

DATES: Comments and related material must reach the Coast Guard on or before August 24, 2016.

ADDRESSES: You may submit comments identified by docket number USCG-2016-0582 using Federal eRulemaking Portal at <http://www.regulations.gov>.

See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Lee D. Soule, Bridge Management Specialist, U.S. Coast Guard; telephone 216-650-5408, email Lee.D.Soule@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

- CFR Code of Federal Regulations
- DHS Department of Homeland Security
- E.O. Executive order
- FR Federal Register
- MDOT Michigan Department of Transportation
- NPRM Notice of proposed rulemaking
- SNPRM Supplemental notice of proposed rulemaking
- Pub. L. Public Law
- § Section
- U.S.C. United States Code

II. Background, Purpose and Legal Basis

MDOT has requested to change the operating schedule of the US41 bridge at mile 16.0. The US41 bridge is the only crossing over the Keweenaw Waterway and connects the towns of Houghton and Hancock, Michigan. The current operating schedule has been in place for approximately 31 years and the use of the waterway has significantly changed, prompting the request to modify the current regulation.

Keweenaw Peninsula is the northernmost part of Michigan's Upper Peninsula projecting into Lake Superior. The Keweenaw Waterway runs northwesterly to southeasterly and separates the peninsula from the mainland making the US41 bridge the only bridge crossing for residents and visitors to the peninsula.

The Keweenaw Waterway is used by recreational, commercial, inspected and uninspected passenger, and towing vessels. The US41 bridge is a vertical lift type drawbridge and provides a horizontal clearance of 250 feet, a vertical clearance of 103 feet in the fully open position, a vertical clearance of 7 feet in the closed position, and a vertical

clearance of 35 feet in the intermediate position. The US41 bridge is a bi-level bridge originally designed with the upper level providing access for automobiles and the lower level providing access for rail, oversized vehicles, and snowmobiles.

The rail service to the peninsula has been discontinued and oversized vehicles must provide advance notice to the state before traveling over the road to the peninsula. Most recreational and commercial vessel traffic, including passenger vessel services, end prior to November 15 each year and do not resume services until after May 7 due to the formation of ice in the waterway. Large commercial freighter vessels do not routinely pass through the Keweenaw Waterway.

The current regulation, 33 CFR 117.635, requires the bridge to operate with a 24-hour advance notice for openings from January 1 through March 15 each year. From March 16 through December 31 the bridge opens on signal at all times.

III. Discussion of Proposed Rule

This rule proposes to amend 33 CFR 117.635 in accordance with the below described changes. The table below shows total bridge opening data provided by MDOT, from April 16 to December 14, between the hours of midnight and 4 a.m., for the past 6 years.

Year	Openings
2010	4
2011	6
2012	6
2013	10
2014	7
2015	6

This proposed rule would allow the bridge to operate with at least a 2-hour advance notice for openings from April 15 through December 14 between the hours of midnight and 4 a.m. During these hours no bridge tender will be required at the bridge. The bridge will be placed in the intermediate position during this 4-hour time period providing a vertical clearance of 35 feet. Vessels requiring a full bridge opening will still be able to obtain an opening with a 2-hour advance notice. Vessels may also go around the peninsula to avoid passing through the bridge.

The table below shows the total bridge opening data provided by MDOT, between December 15 and April 15, for the past 5 years.

Year	Openings
2011	0