

and sponsor-based rental assistance may be for up to one year of rental assistance. Renewals of project-based rental assistance may be for up to 15 years of rental assistance, subject to availability of annual appropriations.

(c) *Assistance available.* (1) Assistance during each year of a renewal period may be for:

(i) Up to 100 percent of the amount for supportive services and HMIS costs in the final year of the prior funding period;

(ii) Up to 100 percent of the amount for leasing and operating in the final year of the prior funding period adjusted in proportion to changes in the FMR for the geographic area; and

(iii) For rental assistance, up to 100 percent of the result of multiplying the number and unit size(s) in the grant agreement by the number of months in the renewal grant term and the applicable FMR.

(d) *Review criteria.* (1) Awards made under title IV of the Act, as in effect before August 30, 2012 are eligible for renewal in the Continuum of Care program even if the awardees would not be eligible for a new grant under the program, so long as they continue to serve the same population and the same number of persons or units in the same type of housing as identified in their most recently amended grant agreement signed before August 30, 2012. Grants will be renewed if HUD receives a certification from the Continuum that there is a demonstrated need for the project, and HUD finds that the project complied with program requirements applicable before August 30, 2012. For purposes of meeting the requirements of this part, a project will continue to be administered in accordance with 24 CFR 582.330, if the project received funding under the Shelter Plus Care program, or 24 CFR 583.325, if the project received funding under the Supportive Housing Program.

(2) *Renewal of awards made after August 30, 2012.* Review criteria for competitively awarded renewals made after August 30, 2012 will be described in the NOFA.

(e) *Unsuccessful projects.* HUD may renew a project that was eligible for renewal in the competition and was part of an application that was not funded

despite having been submitted on time, in the manner required by HUD, and containing the information required by HUD, upon a finding that the project meets the purposes of the Continuum of Care program. The renewal will not exceed more than one year and will be under such conditions as HUD deems appropriate.

(f) *Annual Performance Report condition.* HUD may terminate the renewal of any grant and require the recipient to repay the renewal grant if:

(1) The recipient fails to timely submit a HUD Annual Performance Report (APR) for the grant year immediately prior to renewal; or

(2) The recipient submits an APR that HUD deems unacceptable or shows noncompliance with the requirements of the grant and this part.

§ 578.35 Appeal.

(a) *In general.* Failure to follow the procedures or meet the deadlines established in this section will result in denial of the appeal.

(b) *Solo applicants.* (1) *Who may appeal.* Nonprofits, States, and local governments, and instrumentalities of State or local governments that attempted to participate in the Continuum of Care planning process in the geographic area in which they operate, that believe they were denied the right to participate in a reasonable manner, and that submitted a solo application for funding by the application deadline established in the NOFA, may appeal the decision of the Continuum to HUD.

(2) *Notice of intent to appeal.* The solo applicant must submit a written notice of intent to appeal, with a copy to the Continuum, with their funding application.

(3) *Deadline for submitting proof.* No later than 30 days after the date that HUD announces the awards, the solo applicant shall submit in writing, with a copy to the Continuum, all relevant evidence supporting its claim, in such manner as HUD may require by Notice.

(4) *Response from the Continuum of Care.* The Continuum shall have 30 days from the date of its receipt of the solo applicant's evidence to respond to HUD in writing and in such manner as HUD may require, with a copy to the solo applicant.

(5) *Decision.* HUD will notify the solo applicant and the Continuum of its decision within 60 days of receipt of the Continuum's response.

(6) *Funding.* If HUD finds that the solo applicant was not permitted to participate in the Continuum of Care planning process in a reasonable manner, then HUD may award a grant to the solo applicant when funds next become available and may direct the Continuum of Care to take remedial steps to ensure reasonable participation in the future. HUD may also reduce the award to the Continuum's applicant(s).

(c) *Denied or decreased funding.* (1) *Who may appeal.* Eligible applicants that are denied funds by HUD, or that requested more funds than HUD awarded to them, may appeal the award by filing a written appeal, in such form and manner as HUD may require by Notice, within 45 days of the date of HUD's announcement of the award.

(2) *Decision.* HUD will notify the applicant of its decision on the appeal within 60 days of HUD's receipt of the written appeal. HUD will reverse a decision only when the applicant can show that HUD error caused the denial or decrease.

(3) *Funding.* Awards and increases to awards made upon appeal will be made from next available funds.

(d) *Competing Continuums of Care.* (1) *In general.* If more than one Continuum of Care claims the same geographic area, HUD will award funds to the Continuum applicant(s) whose application(s) has the highest total score. No projects will be funded from the lower scoring Continuum. No projects that are submitted in two or more competing Continuum of Care applications will be funded.

(2) *Who may appeal.* The designated applicant(s) for the lower scoring Continuum may appeal HUD's decision to fund the application(s) from the competing Continuum by filing a written appeal, in such form and manner as HUD may require by Notice, within 45 days of the date of HUD's announcement of the award.

(3) *Decision.* HUD will notify the applicant(s) of its decision on the appeal within 60 days of the date of HUD's receipt of the written appeal. HUD will

reverse a decision only upon a showing by the applicant that HUD error caused the denial.

(e) *Consolidated plan certification.* (1) *In general.* An applicant may appeal to HUD a jurisdiction's refusal to provide a certification of consistency with the Consolidated Plan.

(2) *Procedure.* The applicant must submit a written appeal with its application to HUD and send a copy of the appeal to the jurisdiction that denied the certification of consistency. The appeal must include, at a minimum:

(i) A copy of the applicant's request to the jurisdiction for the certification of consistency with the Consolidated Plan;

(ii) A copy of the jurisdiction's response stating the reasons for denial, including the reasons the proposed project is not consistent with the jurisdiction's Consolidated Plan in accordance with 24 CFR 91.500(c); and

(iii) A statement of the reasons why the applicant believes its project is consistent with the jurisdiction's Consolidated Plan.

(3) *Jurisdiction response.* The jurisdiction that refused to provide the certification of consistency with the jurisdiction's Consolidated Plan shall have 10 days after receipt of a copy of the appeal to submit a written explanation of the reasons originally given for refusing to provide the certification and a written rebuttal to any claims made by the applicant in the appeal.

(4) *HUD review.* (i) HUD will issue its decision within 45 days of the date of HUD's receipt of the jurisdiction's response. As part of its review, HUD will consider:

(A) Whether the applicant submitted the request to the appropriate political jurisdiction; and

(B) The reasonableness of the jurisdiction's refusal to provide the certificate.

(ii) If the jurisdiction did not provide written reasons for refusal, including the reasons why the project is not consistent with the jurisdiction's Consolidated Plan in its initial response to the applicant's request for a certification, HUD will find for the applicant without further inquiry or response from the political jurisdiction.