Leasing Under a Merged CoC

Guidance and Implications for Leasing Units with CoC PSH funding within a merged CoC PSH Program

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Office of Housing and Community Development

OVERVIEW

This guidance is published to provide clarity to Continuum of Care (CoC) Permanent Supportive Housing (PSH) subrecipients relating to operating CoC PSH projects in light of the MA-505 CoC's merger. The following information is taken from a combination of statute, regulations and U.S. Department of Housing and Urban Development (HUD) official policy notices, guidance and FAQs.

Can a PSH project lease a unit elsewhere within the newly merged CoC, meaning, outside of the original CoC geography (meaning, outside of the original boundaries of the New Bedford CoC or GBCATCH CoC)?

Yes. Although a PSH application may have originally anticipated placement within either the New Bedford CoC or GBCATCH CoC, the actual merger effectively *expands* the project's eligible geography, provided that the shift aligns with your project's scope, goals, and approved population. (24 CFR § 578.49)

A PSH project can lease units anywhere within the newly merged CoC's geographic area as long as:

- The **new location is still within the official CoC geographic boundaries** as recognized by HUD;
- The project continues to **serve the same target population** as outlined in the original grant application;
- The project design and client services are not compromised by the new unit locations (e.g., clients still have access to supportive services, case management, and public transit if needed).

If a project is using higher FMRs elsewhere within the newly merged CoC from that which was originally anticipated during the original application, is HUD approval needed?

Under the CoC Program, one does *not* need prior HUD approval just because the FMRs are higher, but *all PSH projects must remain within their approved budget*. (If the budget has been amended, one must remain within the amended budget).

When leasing, CoC PSH units must use the FMR based on the unit location (24 CFR § 578.51(g) and CPD-16-11).

If a higher FMR within the merged CoC is to be paid because the project unit will be located within a new geographic area of the CoC beyond where the original application pre-merger anticipated, the following should be considered:

Budget Compliance Still Applies

- Even if a project unit will be leased in an area with a higher FMR, the PSH project cannot exceed its total leasing line item in the grant agreement (*City and HUD*) or the project's Subrecipient Agreement (*Agency and City*) without prior approval. PSH leasing projects cannot exceed an FMR amount *unless they first obtain a formal FMR exception from the grantee followed by a grantee's exception request to, and approval from, HUD. (Please note this is an extraordinarily rare exception.)* [24 CFR § 578.49(b)(2)]
- If leasing costs per unit rise, the effect may result in the PSH having to house fewer participants or move funds between budget categories (with City/HUD approval, depending on the scope).

Remember…

- Because CoC PSH is leasing based, the subrecipient agency holds the lease with the landlord and subleases it to project participants. FMR limits strictly apply! (If this was a rental assistance project the client would hold the lease and rent reasonableness would be followed).

A Formal Grant Amendment May Be Required If…

- The PSH is proposing a significant change in its geographic service area (e.g., more than incidental expansion).
- The PSH needs to reallocate funds across budget line items in a way that exceeds allowable thresholds (10% of the total award).
- The PSH intends to serve a different population than originally approved.

Under the Continuum of Care Program (24 CFR § 578) PSH projects funded for leasing *(as opposed to rental assistance)*:

- Must occur within the geographic area of the CoC. (24 CFR § 578.49)
- May operate in any part of the CoC's defined area, even if the grant originally focused on a narrower location.

Statutorily, 24 CFR § 578.105(b) allows for grant amendments, including changes to budget line items, with HUD approval.

If a project leases a unit in another area of the CoC where the FMR is higher than that which was originally anticipated during the original application, can occupancy charges be applied to make up the difference between the leasing dollars and the FMR?

In the CoC Permanent Supportive Housing (PSH) program, occupancy charges are *not* permitted to be used to make up the difference between leasing funds and the Fair Market Rent (FMR) and *cannot* be used to subsidize the cost of leasing even if the combined total of leasing dollars and occupancy charges does not exceed the FMR.

HUD regulations (24 CFR § 578.77) are clear that occupancy charges are meant to be affordable contributions from participants, not a tool to close funding gaps or cover program costs. Leasing funds must fully cover the entire unit rent up to FMR while occupancy charges are not program income and cannot be applied to cover program leasing costs. (*Occupancy charges are meant solely as a participant's contribution to housing costs and not to offset grantee/subrecipient leasing expenses. Instead, they are typically retained and used for project operations or supportive services, not as a funding gap tool.*)

Questions relative to this guidance can be directed to the OHCD at 508.979.1500 or via email to staff: Jennifer.Clarke@newbedford-ma.gov or Jose.Maia@newbedford-ma.gov.