

**MEMORANDUM**

TO: County Council

FROM: Josh Hamlin, Legislative Attorney *JH*  
Linda McMillan, Senior Legislative Analyst *LM*

SUBJECT: **Action:** Bill 34-13, Interagency Commission on Homelessness - Established

**Health and Human Services/Planning, Housing and Economic Development Committee recommendation (5-0): enact the Bill with amendments.**

Bill 34-13, Interagency Commission on Homelessness - Established, sponsored by Council Vice-President Leventhal and Council President Rice, was introduced on December 10, 2013. A public hearing was held on January 28 and a joint Health and Human Services/Planning, Housing and Economic Development Committee worksession was held on March 20.

Bill 34-13 would establish an Interagency Commission on Homelessness and establish the membership and duties of the Commission.

**HHS/PHED Committee Worksession**

Uma Ahluwalia Director, Department of Health and Human Services, Nadim Khan, Department of Health and Human Services, Rick Nelson, Director, Department of Housing and Community Affairs, and Bonnie Kirkland, Office of the County Executive, represented the Executive Branch. Council President Rice and Councilmember Navarro both stressed the importance of a regional approach in dealing with the issue of homelessness. The Committee approved (5-0) amendments that would:

- (1) add a new section clearly stating the Council's intention that the Commission function as the governing board of the Montgomery County Continuum of Care;
- (2) define the terms "100,000 Homes Campaign," "Continuum of Care," and "Housing First Initiative" as used in the Bill;
- (3) replace the Director of the Family Justice Center as a Commission member with the Sheriff or representative of the Sheriff;
- (4) designate the member representative of the "Department of Veterans Affairs" as a representative of either the U.S. Department of Veterans Affairs or the Maryland Department of Veterans Affairs;
- (5) clearly state that the three-year term and staggered term provisions of the Bill do not apply to ex officio members;
- (6) remove the requirement that subcommittee chairs be Commission members; and
- (7) add "emergency shelter" to the programs that the Commission must review and monitor.

The Committee recommended (5-0) enactment of the Bill with these amendments.

### **Background - Continuum of Care**

The U.S. Department of Housing and Urban Development (HUD) encourages communities to address the problems of housing and homelessness in a coordinated, comprehensive, and strategic fashion. “Continuum of Care” (CoC) is the embodiment of this concept and process, and is designed to help communities develop the capacity to envision, organize, and plan comprehensive and long-term solutions to addressing the problem of homelessness. Montgomery County Continuum of Care (County CoC) is a public-private partnership including the County and other government agencies, non-profit service providers, landlords, and others who have a role in the County’s housing market. The lead agency of CoC is the County Department of Health and Human Services (DHHS), which manages the homeless intake and assessment process, and the County-wide Homeless Management Information System (HMIS). A powerpoint presentation describing the County CoC is at ©12-27.

HUD regulations<sup>1</sup> provide for the establishment and operation of each CoC, including the requirement that each CoC establish a board to act on its behalf.<sup>2</sup> The membership of the CoC Board must be representative of the relevant organizations and of projects serving homeless subpopulations, and include at least one homeless or formerly homeless individual.<sup>3</sup> Each CoC has until August 30, 2014 to comply with this requirement.<sup>4</sup> Further, HUD regulations require that each CoC adopt and follow a written board selection process that ensures that the CoC Board is appropriately representative of the CoC, and that this process must be reviewed, updated, and approved by the CoC at least once every 5 years.<sup>5</sup> A HUD presentation on establishing and operating a CoC is at ©28-46. Bill 34-13 is drafted so that it may serve as the HUD-required selection process, and that the Interagency Commission on Homelessness (the Commission) may serve as the County CoC Board. The County CoC, in its December 17, 2013 meeting, voted to have the Commission serve in this capacity.

### **Issues**

#### **Statement of the Council’s Intent**

At the public hearing, Director of Health and Human Services Uma S. Ahluwalia conveyed the Executive’s view that the Bill should include language specifying that it is the Council’s intention that the Commission function as the CoC Board, and that the Commission will comply with all federal rules regarding the CoC (see testimony, ©47). While under HUD regulations it is ultimately up to the County CoC to decide whether the Commission functions as its Board, Council staff agrees that the addition of such language to the Bill would be helpful in clarifying the role of the Commission. Further, adding a statement indicating the Council’s intent that the Commission comply with applicable federal regulations when acting as the CoC Board would help ensure eligibility for federal CoC funding. Council staff recommends adding

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<sup>1</sup> 24 CFR 578

<sup>2</sup> 24 CFR 578.5(b)

<sup>3</sup> *Id.*

<sup>4</sup> 24 CFR 578.5(c)

<sup>5</sup> 24 CFR 578.7(a)(3)

a new section stating legislative findings and policy concerning the intended dual role of the Commission.

### **Designation of County Sheriff as a Member**

The Montgomery County Sheriff requested that the designation of the Director of the Family Justice Center as an ex officio member be stricken and replaced with the County Sheriff, or the representative of the Sheriff. First, there is not a position with the specific title "Director of the Family Justice Center." The position that has this function is an executive staff position in the Sheriff's Office, so it would be possible for the Sheriff to designate the director of the Family Justice Center as his representative if appropriate. Also, the Sheriff believes that the experience and perspective of the Sheriff's Office in responding to landlord-tenant and foreclosure related eviction issues would be of particular utility to the Commission in understanding the problems and causes of homelessness. Council staff agrees that substituting the Sheriff for the Director of the Family Justice Center in the Commission membership would be beneficial to the operation of the Commission, and recommends making the requested amendment.

### **Commission Membership Requirement for Subcommittee Chairs**

Fred Swan, Director of Resident Services of the Housing Opportunities Commission, shared his comments on the Bill. Among his comments, Mr. Swan expressed concern that the existing demands on the time of the members of the Interagency Commission on Homelessness would make it difficult for them to take on additional responsibilities as subcommittee chairs. Council staff believes that Mr. Swan's recommendation that subcommittee chairs *not* be required to be members of the Commission would improve the operation of the Commission, and recommends amending the Bill accordingly.

### **County Attorney's Comments**

The County Attorney provided an analysis of the Bill to DHHS, which raised a number of issues with the Bill, most of which are technical. (See ©48-55). A staff amendment addressing several of the issues raised by the County Attorney, as well as incorporating the other changes recommended by Council staff was considered by the Committee

**Committee recommendation (5-0):** Amend the Bill as reflected in the staff amendment, with the additional provision that the member representative of the "Department of Veterans Affairs" be a representative of either the U.S. Department of Veterans Affairs or the Maryland Department of Veterans Affairs

This packet contains:

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Bill No. 34-13  
Concerning: Interagency Commission on Homelessness – Established  
Revised: 3/24/2013 Draft No. 2  
Introduced: December 10, 2013  
Expires: June 10, 2015  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: \_\_\_\_\_  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council Vice-President Leventhal and Council President Rice

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**AN ACT** to:

- (1) establish an Interagency Commission on Homelessness;
- (2) establish the membership and duties of the Commission; and
- (3) generally amend the law relating to health and sanitation.

By adding

Montgomery County Code  
Chapter 24, Health and Sanitation  
Article IX. Interagency Commission on Homelessness  
Sections 24-62, 24-63, 24-64, 24-65, 24-66, 24-67, 24-68, **[[and]]** 24-69, and 24-70

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           Sec. 1. Article IX (Sections 24-62, 24-63, 24-64, 24-65, 24-66, 24-67, 24-68,  
2 ~~[[and]] 24-69, and 24-70~~) is added as follows:

3                     Article IX. Interagency Commission on Homelessness

4 24-62. Legislative findings and statement of policy.

5           (a) The County Council finds that reducing homelessness requires  
6 substantial coordination and cooperation among federal, state, and local  
7 governments, as well as private sector service providers and community  
8 organizations.

9           (b) Montgomery County Continuum of Care is a group of governmental  
10 entities and community representatives that carries out the  
11 responsibilities of the Continuum of Care program established pursuant  
12 to the federal Homeless Emergency Assistance and Rapid Transition to  
13 Housing Act of 2009 (the HEARTH Act).

14           (c) The County Council intends that the Interagency Commission on  
15 Homelessness established under this Article be constituted and function  
16 in such a manner that it may serve as the governing board of  
17 Montgomery County Continuum of Care, and in serving this function  
18 comply with applicable federal regulations governing the Continuum of  
19 Care program.

20 24-63. Definitions.

21 [[In]]When used in this Article[[.]]:

22 100,000 Homes Campaign means an initiative in special needs housing that  
23 gives priority to placing the most vulnerable, chronically homeless people in  
24 permanent supportive housing through a Housing First model;

25 Commission means the Interagency Commission on Homelessness;

26 Continuum of Care means a community program, established under the  
27 HEARTH Act, to organize and deliver housing and services to meet the

28 specific needs of people who are homeless as they move to stable housing and  
 29 maximum self-sufficiency; and  
 30 Housing First Initiative means a process for placing homeless people into  
 31 housing that discourages imposing conditions on placement related to health,  
 32 employment, or sobriety, and seeks to reduce the time in shelter or transitional  
 33 programs and provide the needed supports to people in a permanent home.

34 **[[24-63.]]24-64. Established.**

35 The Executive must appoint, subject to confirmation by the Council, an  
 36 Interagency Commission on Homelessness.

37 **[[24-64.]]24-65. Members**

- 38 (a) The Commission has 25 members.
- 39 (b) The Executive must appoint the following to serve as ex-officio  
 40 members:
  - 41 (1) Director of the Department of Health and Human Services;
  - 42 (2) Chief of Special Needs Housing of the Department of Health and  
 43 Human Services;
  - 44 (3) Chief of Behavioral Health and Crisis Services of the Department  
 45 of Health and Human Services;
  - 46 (4) Director of the Department of Correction and Rehabilitation;
  - 47 (5) Director of the Department of Housing and Community Affairs;
  - 48 (6) Assistant Chief for Field Services of the Montgomery County  
 49 Police Department; and
  - 50 (7) A representative from the Office of the County Executive[; and  
 51 (8) The Director of the Family Justice Center]].
- 52 (c) The Executive must invite the following to serve as ex officio members:
  - 53 (1) A member of the County Council, selected by the Council  
 54 President;

- 55           (2) Executive Director of the Housing Opportunities Commission;  
 56           (3) Director of Student Services of the Montgomery County Public  
 57               Schools;  
 58           (4) The Mayor or the representative of the Mayor of the City of  
 59               Gaithersburg;  
 60           (5) The Mayor or the representative of the Mayor of the City of  
 61               Rockville;  
 62           (6) The Mayor or the representative of the Mayor of the City of  
 63               Takoma Park;  
 64           (7) A representative of the either the United States Department of  
 65               Veterans Affairs or the Maryland Department of Veterans  
 66               Affairs; [[and]]  
 67           (8) The Montgomery County Sheriff or the representative of the  
 68               County Sheriff; and  
 69           (9) A member of the County Legislative Delegation selected jointly  
 70               by the Chairs of the House and Senate Delegations.
- 71           (d) The Executive must appoint 5 members that are representatives of the  
 72               Montgomery County Continuum of Care.
- 73           (e) The Executive must appoint 4 members of the public. At least 1 public  
 74               member must be a homeless or formerly homeless resident of  
 75               Montgomery County and at least 1 member must be a representative of  
 76               a hospital located in Montgomery County.
- 77           (f) The term of each non-ex officio member is 3 years. If a member is  
 78               appointed to fill a vacancy before a term expires, the successor serves  
 79               the rest of the unexpired term.

80    ~~[[24-65.]]~~24-66.        Voting, officers, chairs, meetings, compensation;  
 81    subcommittees.

- 82           (a)   Each member of the [[Group]] Commission is a voting member.
- 83           (b)   The Executive must designate a Chair and Vice Chair.
- 84           (c)   The Commission must meet at least 4 times each year.
- 85           (d)   A member serves without compensation. However, a member may  
86                 request reimbursement for mileage and dependent care costs at rates  
87                 established by the County.
- 88           (e)   The Commission may establish 1 or more subcommittees to assist in  
89                 carrying out any function of the Commission. Any subcommittee action  
90                 is not the action of the Commission and must not bind the Commission  
91                 or its members. A subcommittee may include a person who is not a  
92                 member of the Commission. [[However, the chair of each  
93                 subcommittee must be a member of the Commission.]]

94    ~~[[24-66.]]~~**24-67. Duties.**

95           The Commission must:

- 96           (a)   promote a community-wide goal to end homelessness;
- 97           (b)   develop a strategic plan to prevent and reduce homelessness and  
98                 minimize the trauma and dislocation caused to homeless families and  
99                 individuals;
- 100          (c)   review and monitor any program that is a component of the Continuum  
101                 of Care, 100,000 Homes Campaign, and Housing First Initiative,  
102                 including:
- 103                 (1)   permanent housing;
- 104                 (2)   transitional housing;
- 105                 (3)   supportive services;
- 106                 (4)   homeless management information system; [[and]]
- 107                 (5)   homelessness prevention; and
- 108                 (6)   emergency shelter;

- 109           (d) recommend to the Executive and Council any improvements to the  
 110                    Continuum of Care, including process changes, to reduce any barrier to  
 111                    housing and minimize the time needed to move someone from  
 112                    homelessness to housing;
- 113           (e) educate the community about homelessness, best practices to reduce  
 114                    homelessness, resources needed to reduce homelessness, and long term  
 115                    savings that are achieved by providing permanent, stable housing; and
- 116           (f) recommend and promote partnerships with any private organization,  
 117                    business, corporation, philanthropic organization or foundation, and any  
 118                    municipal, state, or federal government agency to improve the County's  
 119                    ability to prevent and reduce homelessness.

120   **[[24-67.]]24-68. Annual report.**

121            By November 30 of each year, the Commission must submit to the Executive  
 122   and Council a report that:

- 123           (a) provides data and trends regarding homelessness, including data from  
 124                    the Council of Government's Point-in-Time survey and the 100,000  
 125                    Homes Campaign survey;
- 126           (b) identifies gaps in the Continuum of Care that prevent or impede the  
 127                    County's ability to address needs identified through the review of data  
 128                    on homeless;
- 129           (c) makes recommendations for the capital and operating budget for the  
 130                    following fiscal year;
- 131           (d) makes recommendation for any legislative or regulatory changes needed  
 132                    to implement the Continuum of Care strategic plan; and
- 133           (e) reports on any educational or public outreach activities undertaken  
 134                    during the preceding year.

135 ~~[[24-68.]]~~24-69. Advocacy.

136 The Commission must not engage in any legislative advocacy at the state or  
137 federal levels unless that activity is approved by the Office of Intergovernmental  
138 Relations.

139 ~~[[24-69.]]~~24-70. Staff.

140 The Chief Administrative Officer must provide appropriate staff within the  
141 Department of Health and Human Services to staff the Commission.

142 **Sec. 2. Terms for Initial Members.**

143 The County Executive must stagger the terms of the non-ex officio members  
144 initially appointed under Section 24-64 so that approximately one-third of the terms  
145 of these members expire each year.

146 *Approved:*

147

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Craig L. Rice, President, County Council

Date

148 *Approved:*

149

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Isiah Leggett, County Executive

Date

150 *This is a correct copy of Council action.*

151

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Linda M. Lauer, Clerk of the Council

Date

## LEGISLATIVE REQUEST REPORT

Bill 34-13

### *Interagency Commission on Homelessness*

**DESCRIPTION:** Bill 34-13 would create an Interagency Commission on Homelessness

**PROBLEM:** Homelessness continues in Montgomery County as it does in other jurisdictions. The 2013 COG Point-in-Time survey counted 1,004 homeless people including 638 homeless individuals and 366 people in families. In November, during the 100,000 Homes Campaign Registry week 431 homeless individuals were contacted and 369 completed surveys providing information about the risk factors, including health, that have led to their homelessness.

**GOALS AND OBJECTIVES:** Improve planning and collaboration to prevent and reduce homelessness by establishing an ongoing Commission of policy makers, service partners, and public members. The Commission will help inform the public about the problem of homelessness and the outcomes from helping individuals and families to have permanent housing. The Commission will review programs and best practices and make recommendations to the County Executive and County Council.

**COORDINATION:** Health and Human Services

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** Subject to the general oversight of the County Executive and County Council.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Linda McMillan, Senior Legislative Attorney 240-777-7933  
Amanda Mihill, Legislative Attorney 240-777-7815

**APPLICATION WITHIN MUNICIPALITIES:** N/A

**PENALTIES:** N/A



ROCKVILLE, MARYLAND

MEMORANDUM

January 13, 2014

TO: Craig Rice, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget *JAH*  
Joseph F. Beach, Director, Department of Finance *JFB*

SUBJECT: Council Bill 34-13, Interagency Commission on Homelessness – Established

Please find attached the fiscal and economic impact statements for the above-referenced executive regulation.

JAH:fz

cc: Bonnie Kirkland, Assistant Chief Administrative Officer  
Lisa Austin, Offices of the County Executive  
Joy Nurmi, Special Assistant to the County Executive  
Patrick Lacefield, Director, Public Information Office  
Joseph F. Beach, Director, Department of Finance  
Michael Coveyou, Department of Finance  
Kevin Myers, Department of Finance  
Uma Ahluwalia, Director, Department of Health and Human Services  
Alex Espinosa, Office of Management and Budget  
Pofen Salem, Office of Management and Budget  
Felicia Zhang, Office of Management and Budget  
Naeem Mia, Office of Management and Budget

**Fiscal Impact Statement**  
**Council Bill 34-13 & Interagency Commission on Homelessness - Established**

1. Legislative Summary (Enter narrative that explains the purpose of the legislation).
  - a. Establish an Interagency Commission on Homelessness;
  - b. Establish the membership and duties of the Commission; and
  - c. Generally amend the law relating to health and sanitation.
2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

The proposed bill requires that the Executive appoints 25 members subject to confirmation by the Council. Of the 25, 16 would be governmental representatives (local, state, and federal), five would be representatives from the Montgomery County Continuum of Care, and four would be members of the public.

The duties assigned to the Commission in Section 24-66 will require substantive support and program knowledge by a staff person that can function effectively and assist in the monitoring of programs in the Montgomery County Continuum of Care, 100,000 Homes Campaign, and the Housing First Initiative.

The appropriate position will be discussed and identified during the FY15 budget review process.

Description	One-Time- Only	Ongoing	Assumption
Travel Reimbursement		\$ 1,000	4 meetings x \$10 = \$40 x 25 members
Dependent Care Expenses		\$ 3,000	4 meetings x \$30 = \$120 x 25 members
Program Manager II		\$ 91,857	Grade 25, 1.0FTE
Laptop	\$ 1,900		Infrastructure cost
Furniture	\$ 4,200		Infrastructure cost
Desk Phone	\$ 400	\$ 420	On-going based on \$35 per month
Blackberry	\$ 100	\$ 1,200	On-going based on \$100 per month
Office Supplies		\$ 1,000	
<b>Total</b>	<b>\$ 6,600</b>	<b>\$ 98,477</b>	<b>Total \$105,077 first year</b>

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Fiscal Year	One	Two	Three	Four	Five	Six	Total
<b>Total Expenditure</b>	<b>\$105,077</b>	<b>\$98,477</b>	<b>\$98,477</b>	<b>\$98,477</b>	<b>\$98,477</b>	<b>\$98,477</b>	<b>\$597,462</b>

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.  
Not applicable.
5. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

**Economic Impact Statement**  
**Bill 34-13, Interagency Commission on Homelessness - Established**

**Background:**

This legislation would establish an Interagency Commission on Homelessness (Commission) and describe the membership and duties of the Commission.

**1. The sources of information, assumptions, and methodologies used.**

Not applicable

**2. A description of any variable that could affect the economic impact estimates.**

Not applicable

**3. The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.**

The Bill has no direct effect on the County's economy. However, some of the duties of the Commission must:

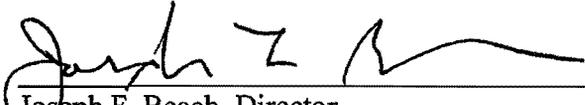
- Promote a community-wide goal to end homelessness,
- Develop a strategic plan to prevent and reduce homelessness and minimize the trauma and dislocation cause to homeless families and individuals, and
- Reviews and monitor any program that is a component of the Continuum of Care, 100,000 Homes Campaign, and Housing First Initiative.

Therefore the duties undertaken by the Commission should have a positive economic effect on those County residents who are homeless and specifically those that move those residents from a homeless environment to permanent or transitional housing. Such a program should create a demand for low-income housing.

**4. If a Bill is likely to have no economic impact, why is that the case?**

As stated in paragraph 3, the duties of the Commission should have a positive economic impact on the homeless residents in the County.

**5. The following contributed to and concurred with this analysis: David Platt and Rob Hagedoorn, Finance;**

  
\_\_\_\_\_  
Joseph F. Beach, Director  
Department of Finance

12/13/13  
\_\_\_\_\_  
Date

Montgomery County  
Community of Care  
Community-Wide Meeting  
Presentation



# Montgomery County Continuum of Care

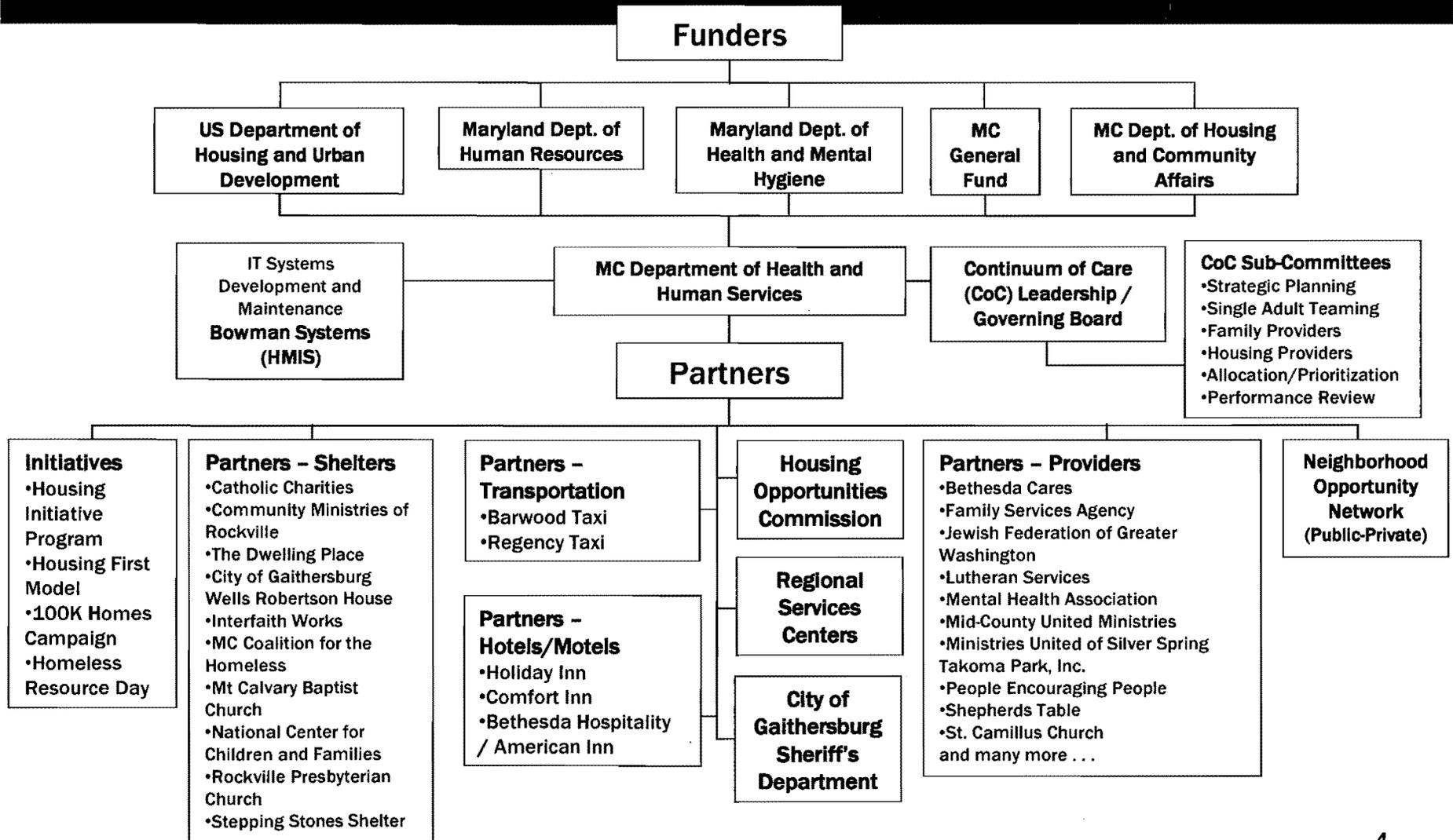
**The Montgomery County Continuum of Care (CoC) is our local homeless program planning network. It is a public-private partnership that includes County and other government agencies, non-profit service providers, landlords and others who have a role in the County's housing market.**

- US Department of Housing and Urban Development (HUD) has been encouraging communities to address the problems of housing and homelessness in a coordinated, comprehensive and strategic fashion
- Montgomery CoC annually receives approximately \$7.5 million in HUD funding
- The purpose of the CoC is to encourage and support local organizations in coordinating their efforts to address housing and homeless issues and reduce homelessness
- As the lead agency, the Montgomery County Department of Health and Human Services (DHHS) manages the homeless intake and assessment process, and the County-wide Homeless Management Information System (HMIS)

# Montgomery County Continuum of Care

- Continuum of Care services includes housing programs and services to people who are homeless, including outreach services, emergency shelter services, and transitional and permanent supportive housing programs
- The CoC also includes a range of homelessness prevention initiatives including emergency financial assistance, case management, shallow rent subsidies and energy assistance designed to prevent the loss of permanent housing
- Case management is provided at all levels with an emphasis on achieving housing stability and linking persons to housing, employment, disability entitlements and other services
- The County continues to emphasize the creation of more permanent housing options while keeping the people experiencing homelessness safe during the winter season

# Continuum of Care Framework and Partners



# Continuum of Care Responsibilities

- Hold meeting of full membership with agendas at least semi-annually
- Make an invitation for new members to join publically available at least annually
- Adopt and follow a written process to select a board to act on behalf of the CoC
- Appoint additional committees, subcommittees or workgroups
- In consultation with the CoC Collaborative Applicant and HMIS Lead develop, follow and update a governance charter annually
- Establish performance targets appropriate to population and program type
- Monitor performance, evaluate outcomes and take action against poor performers
- Evaluate outcomes of Emergency Solutions Grant (ESG) and CoC program projects
- Establish either a coordinated assessment or centralized intake system

# Continuum of Care Responsibilities

- Establish written standards with CoC program and ESG recipients
- Designate and operate a single Homeless Management Information System (HMIS)
- Coordinate and implement a housing and service system which includes outreach, assessment, prevention strategies
- Coordinate the Point-in-Time count and annual gap analysis
- Provide information to complete the Consolidated Plan and consult with ESG program to report and evaluate ESG recipients and sub recipients
- Convene regular monthly meeting of sub-committees and workgroups

# Interagency Commission on Homelessness/CoC Board of Governance

**Established. The Executive must appoint, subject to confirmation by the Council, an Interagency Commission on Homelessness.**

■ **Duties.** The Commission will:

- **Serve as the Governing Board for the CoC as required by the Department of Housing and Urban Development (HUD)**
- **Promote community-wide goals to end homelessness and develop strategic plans to prevent and reduce homelessness and minimize the trauma and dislocation caused to homeless families and individuals**
- **Review and monitor programs that are components of the CoC, 100,000 Homes Campaign, and Housing First Initiative including, but not limited to, permanent housing, transitional housing, supportive services, homeless management information system, and homelessness prevention**
- **Make recommendations to the County Executive and County Council for improvements to the CoC including process changes to reduce barriers to housing and minimize the time needed to move someone from homelessness to housing**

# Interagency Commission on Homelessness/CoC Board of Governance

**Established. The Executive must appoint, subject to confirmation by the Council, an Interagency Commission on Homelessness.**

■ **Duties.** The Commission will:

- Review the funding application and response to HUD's CoC Program Notice of Funds Available (NOFA) for homelessness assistance resources
- Educate the community about homelessness, best practices to reduce homelessness, the resources needed to reduce homelessness, and long-term savings that are achieved by providing permanent, stable housing
- Recommend and promote partnerships with private organizations, businesses, corporations, philanthropic organizations and foundations, and municipal, state, and federal government agencies to improve the County's ability to prevent and reduce homelessness

# Continuum of Care Initiatives



## Montgomery County's CoC – 100,000 Homes Campaign

- Montgomery County CoC has unanimously approved and signed up for the National 100,000 Homes Campaign
- Montgomery County Department of Health and Human Services is co leading the campaign with Montgomery County Coalition for the Homeless (MCCH), along with many other government agencies, nonprofits, and organizations
- **The Goal** – is to end homelessness through community engagement and high rates of placement of persons identified as vulnerable and/or as experiencing chronic homelessness in permanent housing
- **Continue to implement the Housing First model**– offer most vulnerable and chronically homeless persons priority to permanent housing combined with available support services

# Continuum of Care Initiatives



## Montgomery County's CoC – 100,000 Homes Campaign

- Approximately 300 volunteers used the Vulnerability Index survey to interview 369 persons experiencing homelessness including those living on the streets, in the woods, and in shelters during the Campaign's Registry Week in November 2013.
- The Vulnerability Index is based on research findings that found that individuals with certain medical conditions are at a higher risk of death while experiencing homelessness.
  - Further research indicates that persons experiencing homelessness have a 25 year shorter life expectancy than those who are housed.
  - The 369 individuals surveyed in Montgomery County reported a total of 677 inpatient hospitalizations in the past year; and 159, almost half, were identified as medically vulnerable and will be at risk of death if they stay homeless.
- December 2013, the Montgomery County Council approved a FY14/15 special appropriation of over \$640,000 to provide permanent housing with supportive services for 15 additional homeless individuals, identified as the most vulnerable. This funding will provide subsidies for rental assistance and utility costs as well as intensive services such as case management

# Continuum of Care Initiatives

## Homeless Resource Day

- The Homeless Resource Day (HRD) is designed to be a “one-day, one stop” opportunity for individuals and families experiencing homelessness to access needed benefits, medical care, and counseling, in addition to a variety of other community services that can help promote self-sufficiency and resolve housing crises. The community support has been, and will continue to be, an important part of our effort to address the issues confronting homeless residents.
- This event has been so successful for the past three years that now it has become one of the largest annual DHHS events in the county.
- During the past three years HRD has served over 920 individuals and families to access services and resources.
- We had 68 Vendors in 2011 and 86 Vendors in 2012 and 67 Vendors in 2013



Montgomery College Students  
who Volunteered for HRD 2013

- We had over 250 Volunteer each year
- On November 7, 2013 we had over 300 Volunteers to assist with the event.
- Next HRD will be held on Thursday November 13, 2014 at the Activity Center at Bohrer Park, Gaithersburg

# Montgomery County Homeless Count



	2011	2012	2013	% Change 2012 to 2013
<b>TOTAL HOMELESS PERSONS</b>	<b>1,132</b>	<b>982</b>	<b>1,004</b>	<b>2.2%</b>
<b>Individual Adults</b>				
o Unsheltered	226	130	143	10.00%
o Emergency Shelters	392	328	337	2.74%
o Transitional Housing	140	142	158	11.27%
o Total Individual Adults	758	600	638	6.33%
<b>Families with Children</b>				
o Unsheltered	0	0	0	
o Emergency Shelters	55	69	66	-4.35%
o Transitional Housing	70	57	51	-10.53%
o Total Families	125	126	117	-7.14%
o Total Persons in Families	374	381	366	-4.0%
<b>Fiscal Year Households Served in Emergency Family Shelter</b>	<b>357</b>	<b>415</b>	<b>388</b>	
<b>Total Persons in Permanent Supportive Housing Programs (PSH)</b>				
o Individual Adults	505	598	636	6.35%
o Families with Children	278	310	312	0.65%
o Total Persons in Families	937	1042	1059	1.63%
	<b>1,442</b>	<b>1,640</b>	<b>1,695</b>	<b>3.35%</b>

# Montgomery County's Homeless Sub-populations

	FY11	FY12	FY13	Change 2012 - 2013
Chronic Substance Abuser (CSA)	141	115	146	21.24%
Severe Mental Illness (SMI)	186	199	174	-12.57%
Dually Diagnosed (CSA and SMI)	215	149	134	-10.07%
Chronic Health Problem	160	142	184	22.83%
Physical Disability	130	95	98	3.07%
Domestic Violence Victim	172	205	231	3.07%
Limited English Proficiency (new)	202	106	104	-1.89%
U.S. Veterans	41	37	31	-16.22%
Chronically Homeless	348	199	228	12.72%
Young Homeless Parents (18-24)	98	100	97	-.9%

# Montgomery County Continuum of Care Ten Year Plan to End Homelessness

## DRAFT PLAN GOALS

- **Finish the job of ending chronic homelessness in 5 years**
- **Prevent and end homelessness among Veterans in 5 years**
- **Prevent and end homelessness for families, youth, and children in 10 years**
- **Set a path to ending all types of homelessness**

# Montgomery County Continuum of Care Ten Year Plan to End Homelessness

## **DRAFT PLAN GOALS**

- **Provide/Promote Collaborative Leadership**
- **Strengthen Capacity of Organizations by Increasing Knowledge about Collaboration, Homelessness, Best Practice**
- **Increase Access to Stable Affordable Housing**
- **Provide Permanent Supportive Housing**
- **Improve Access to Education and training and Increase Employment**

# Montgomery County Continuum of Care Ten Year Plan to End Homelessness

## **DRAFT PLAN GOALS**

- **Improve access to “mainstream” programs/services in order to reduce financial vulnerability**
- **Integrate Primary and Behavioral Health Services with Homeless Assistance and Housing Programs**
- **Advance Health and Housing Stability for unaccompanied and youth aging out of systems**
- **Advance Health and Housing Stability for people experiencing homelessness with frequent contact with hospitals and criminal justice**
- **Continue to Re-Tool Crisis Response System to Prevent and End Homelessness**



# Continuum of Care Duties: Establishing and Operating a Continuum of Care



U.S. Department of Housing and Urban Development

CoC2.0 | Slide 1

Welcome to the HUD Broadcast on the Continuum of Care duties in establishing and operating a Continuum of Care. This presentation will provide information about how to establish and operate a Continuum of Care.

# Today's Broadcast will cover...

- Purpose of Continuum of Care (CoC) Program
- CoC Organizational Structure
- CoC Governance Responsibilities



We will start today's broadcast with an overview of the purpose of the CoC Program and the core requirement in the CoC Program interim rule to establish a Continuum of Care, or CoC. We will also discuss the various entities that are likely to work with the CoC to achieve its goals and responsibilities.

Then we will review the organizational structure of a CoC, including an overview of the relationship between the CoC Board, HMIS Lead, and Collaborative Applicant.

Finally, we will detail the governance-related responsibilities required of the CoC in the CoC Program regulations, so listeners can clearly understand what will be expected of them.

# Establishing a CoC

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To meet the goals of the CoC Program, the interim rule requires communities to establish a CoC.

The CoC must meet minimum requirements for structure and governance.



The CoC Program is designed to:

- Promote a community-wide commitment to the goal of ending homelessness;
- Provide funding for efforts to quickly re-house individuals and families who are homeless, which minimizes the trauma and dislocation caused by homelessness;
- Promote access to and effective use of mainstream programs;
- Optimize self-sufficiency among individuals and families experiencing homelessness.

Recognizing that the community will need to be fully engaged in order to achieve the intended purpose of the CoC Program, the interim rule requires communities to establish a Continuum of Care in order to receive CoC Program funding.

## CoC Defined

At its simplest, a Continuum of Care is established by ***representatives of relevant organizations*** within a ***geographic area*** to ***carry out the responsibilities*** set forth in the CoC Program interim rule.



A CoC is expected to address homelessness through a coordinated community-based process of identifying needs and building a system of housing and services that meet those needs.

The CoC Program interim rule formalizes the role of the Continuum of Care as the planning body responsible for meeting the goals of ending and preventing homelessness.

In some communities, very little will have to change about the CoC's structure and operations in order to be in compliance with the requirements of the CoC Program interim rule. In other communities, more structure and formalization will need to be implemented to be in compliance with the program requirements.

# CoC Membership

## Membership should ensure:

- Community-wide commitment to ending and preventing homelessness
- Representation of the relevant organizations within the entire geographic area served by the CoC



Each CoC is expected to be tailored to its unique community circumstances, to the extent possible involving all of the players required to further local efforts to end homelessness. The purpose for including stakeholder representation from a wide range of organizations within the CoC's geographic area is to ensure that all community stakeholders participate in developing and implementing a range of housing and services.

Continuums are expected to include representation to the extent that the type of organization exists within the geographic area that the Continuum represents and is available to participate in the Continuum. For example, if a CoC did not have a university within its geographic boundaries, then HUD would not expect the Continuum to have representation from a university within the Continuum.

# CoC Membership Examples

- Nonprofit homeless assistance providers
- Victim services providers
- Faith-based organizations
- Governments
- Businesses
- Advocates
- Public housing agencies
- School districts



Note that the CoC is intended to be a large, representative group. It is generally envisioned as a network or coalition of existing organizations, entities and individuals. The next slide provides examples.

# CoC Membership Examples

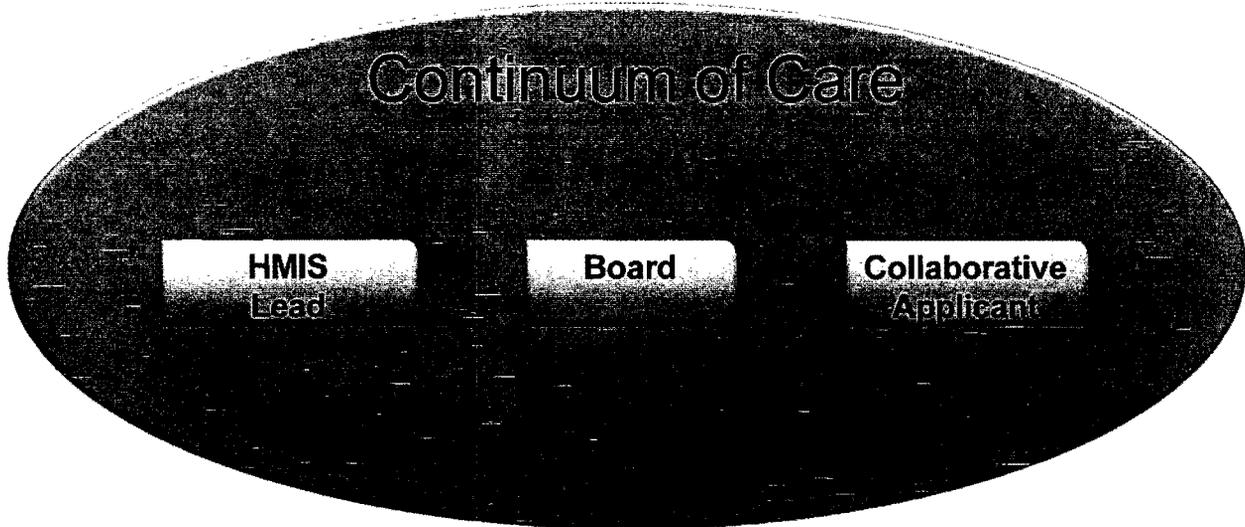
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- Social service providers
- Mental health agencies
- Hospitals
- Universities
- Affordable housing developers
- Law enforcement
- Organizations that serve veterans who are homeless and formerly homeless
- Persons who are homeless and formerly homeless



Here are additional examples of the groups, entities and individuals who participate in a CoC. In some communities, the CoC is the main organizing body, whereas in other communities, it is a part of a larger coordinating body for mainstream services.

## CoC Organizational Structure



The CoC is ultimately responsible for all duties assigned in the CoC Program interim rule.

Two activities - compiling and submitting the CoC application and operating the HMIS - must be done by eligible applicants; therefore, the CoC must designate eligible applicants to serve these functions.

The CoC may formally assign some of its responsibilities to other entities, such as a CoC board or committees, if desired. It is ultimately up to the CoC to determine how it would like to function, but as we will discuss later in this broadcast, all of the assignments need to be documented in writing.

## CoC Board

- Must be established by CoC to act on its behalf
- What the CoC means by “on its behalf” must be specified in the CoC governance charter
- ***NOT the same as a CoC Collaborative Applicant***



The CoC Program interim rule requires every CoC to establish a board to act on behalf of the Continuum. The board will be a subset of the membership that is established in accordance with the CoC regulations governing board composition and board selection.

The CoC assigns the Board responsibilities in a written agreement called a Governance Charter. We will talk more about that later, but please understand that the board does not have an explicit role unless specified in the governance charter. Without assigning a duty to the Board, responsibilities are retained by the CoC.

A CoC board might look and act like an Advisory or Oversight Committee of the CoC coalition or network.

## **CoC Board Requirements**

- Must represent relevant organizations and projects serving homeless subpopulations
- Must include at least one person who is homeless or formerly homeless
- One board member may represent the interests of more than one homeless subpopulation



The CoC Program interim rule requires CoC Boards to include representatives from relevant organizations and projects serving homeless subpopulations, such as persons with substance use and/or mental health disorders; persons with HIV/AIDS; veterans; people who are chronically homeless; families with children; unaccompanied youth; and victims of domestic violence, dating violence, sexual assault, and stalking.

The board must also include at least one individual who is homeless or formerly homeless.

Please note that HUD does not specify a length of homelessness for the individual who is homeless and/or formerly homeless on the board.



# CoC Operating Requirements



U.S. Department of Housing and Urban Development

CoC2.0 | Slide 11

There are nine separate and distinct CoC operating responsibilities required by the CoC Program interim rule. Together, these operating responsibilities put significant emphasis on ensuring a broad, inclusive, transparent process.

This Broadcast will discuss the first five, which are related to CoC governance and structure.

# CoC Operating Requirements

- Hold semiannual meetings with published agendas of the full membership
- Invite new members at least annually
- Appoint additional committees
- Adopt and follow a written board selection process
- Develop a governance charter



The first three responsibilities of the Continuum are basic responsibilities around the functioning of the CoC itself. These include:

- Holding at least semiannual meetings of the full membership of the CoC with formal, published agendas.
- Ensuring that new members are invited to the CoC annually through a publicly available invitation – such as in newspapers with general circulation in the area, through announcement to local boards and commissions, and in other publicly accessible ways.
- Appointing committees, subcommittees, or workgroups to carry out the tasks of the continuum.

## Membership

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- Semiannual meetings of full membership
  - Meetings must have published agendas
- Public, annual invitation to recruit new members
- Additional committees, subcommittees, or workgroups

### Examples:

- Application review
- Point in Time count
- Coordinated assessment



These committees are not specified in the regulation, but some examples may include:

- Application Review committee to manage the annual HUD application process and recommend the final application to the CoC for approval;
- Point-in-Time Count committee to oversee the annual PIT and Housing Inventory Count;
- Committee to develop and implement appropriate policies, procedures, and standards of service for the continuum's coordinated assessment;
- HMIS committee to review plans, policies and procedures for recommendation to the CoC and oversee their implementation;
- Performance Measurement committee to develop and update system- and project-level targets and review evaluation results.

## **Board Selection Process**

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- Establish written process to select a board to act on behalf of the Continuum of Care
  - Selection process must be reviewed, updated, and approved by CoC at least once every 5 years
- Establish code of conduct, conflict of interest, and recusal process for Board



The fourth requirement is for the Continuum to adopt and follow a board selection process, which must be transparently described in writing and establish a process that will ensure the Board is appropriately representative of the Continuum, as required and discussed earlier. The written process must be reviewed, updated, and approved by the CoC at least once every 5 years.

The CoC Board must also establish a code of conduct and recusal process for individual members and comply with the conflict of interest requirements at § 578.95(b). These conflict of interest requirements include conflicts in regards to issues such as procurement of goods or services, funding decisions, provision of assistance, and others.

## CoC Governance Charter

CoC must develop and follow a governance charter that details the functions of:

- CoC board
- CoC's committee structure and roles
- HMIS lead
- Staff roles
- Process for amending the charter

**Some CoCs may already have bylaws that are similar to a governance charter.**



The fifth requirement is to establish a governance charter in consultation with the collaborative applicant and the HMIS lead. The governance charter should outline all the roles and responsibilities assigned by the CoC to the Board or to any committees, subcommittees or workgroups and the process for reviewing and amending the charter.

Some CoCs have existing CoC bylaws which may or may not meet these requirements depending on how comprehensive they are. Bylaws may serve as a basis for developing a Governance Charter.

# CoC Governance Charter

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Governance charter must include:

- Policies and procedures to carry out CoC responsibilities
- Code of conduct
- Recusal process for board members

Governance charter must be:

- Reviewed and updated annually
- Developed in consultation with the Collaborative Applicant and HMIS lead



The governance charter must be updated annually and must encompass:

- Procedures and policies addressing the establishment and operation of the CoC;
- Procedures and policies regarding designating the HMIS Lead and HMIS Lead requirements;
- Code of conduct for the board; and
- Recusal process for the board, its chair, and any person acting on behalf of the board.

It is important to note that this charter is specific to the CoC board and is not the same as a recipient's or subrecipient's "Code of Conduct".

## Transition Compliance Period

- CoC must comply with the board requirement by August 30, 2014
- If board already meets requirements, CoC must have reviewed and approved its written process for selecting the board within last 5 years



The CoC must comply with the requirements related to establishing the board and its composition by August 30, 2014, two years from the effective date of the CoC Program interim rule. All other parts of the interim rule went into effect on August 30, 2012.

It is possible that, in some communities, a board already meets the described requirements. In that case, the CoC needs to ensure that it has reviewed and approved the written process for selecting the board in the last five years and followed that process when selecting the current board.

The date of the approval of the entire written process should be documented in meeting minutes or other CoC documentation. The board can be elected, appointed, or some combination – it is important that the process be transparent and approved.



## How to ask questions to HUD

You can obtain additional information or assistance by going to [OneCPD Resource Exchange](#) and searching the [Resource Library](#), checking out [Training & Events and News](#), using [Ask a Question](#) or [requesting technical assistance](#)



Thank you for joining us for this broadcast on the CoC's responsibilities in establishing and operating a Continuum of Care. This broadcast provided an overview of the purpose of a CoC, identified the core requirements to establish a Continuum of Care, and outlined the various entities likely to work with the CoC to achieve its goals and responsibilities. We also reviewed the CoC organizational structure, including an overview of the relationship between the CoC Board, HMIS Lead, and Collaborative Applicant. Finally, we discussed the governance-related responsibilities required of the CoC in the CoC Program regulations.

Please refer to the related training materials on the CoC's responsibilities in establishing and operating a Continuum of Care that are provided on the OneCPD Resource Exchange. In the event that you have a specific question, please contact your Field Office or submit a question to the Ask-a-question section of [www.oneCPD.info](http://www.oneCPD.info)



**Thank you.**

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Continuum of Care 2.0





DEPARTMENT OF HEALTH AND HUMAN SERVICES

Isiah Leggett  
*County Executive*

Uma S. Ahluwalia  
*Director*

Bill 34-13, Interagency Commission on Homelessness--Established

Testimony of Uma S. Ahluwalia  
Director of the Department of Health and Human Services

Good afternoon Council President Rice and Councilmembers. I am Uma Ahluwalia, Director of the Department of Health and Human Services. I am pleased to be here today to testify on behalf of the County Executive in support of Bill 34-13.

As you know Montgomery County government--in concert with many community partners--has been engaged in a significant effort to address the needs of its homeless residents. Most recently those efforts culminated in the County's formal participation in the 100,000 Homes Campaign.

Councilmember Leventhal, the sponsor of this legislation, has worked tirelessly to raise awareness about the needs of this community and to build support for more effective approaches to end homelessness in our County.

The County Executive recognizes the value in establishing a body that can improve planning and collaboration among a wide range of policy makers, service providers, and others involved with the homeless community. He believes this Commission can play a useful role in this effort.

As drafted the bill mirrors the composition of Montgomery County's Continuum of Care--a network of private and public groups created under the auspices of the US Department of Housing and Urban Development working to prevent and end homelessness. To date, our HHS department has been the lead agency for this group, providing staff support and preparing grant applications. Currently the COC includes representation from 13 private organizations, 7 public agencies, and two advocates.

An interim HUD Rule requires that each COC designate a governing board by August 30, 2014. In order to avoid duplication of effort the County Executive recommends that this interagency commission be constituted in a way that would allow it to function as the governing board of the COC, while the existing COC would act as its operational arm. The County Executive believes that the bill should include language--perhaps in the preamble--specifying that it is Council's intention that the Commission can function as the Governing Board and that the Commission will comply with all federal rules regarding Continuums of Care. The proposed bill appears to meet current requirements as outlined in the Interim HUD Rule. The County Attorney notes that as federal rules continue to develop it may be necessary to modify the legislation if the Commission is to continue functioning as the Governing Board of the COC. Any additional changes to the proposed legislation should be carefully reviewed in order to ensure compliance with federal regulation.

The County Attorney has also flagged a number of technical issues, most of which can be cured with relatively small changes to the bill. We are happy to share all of these recommended changes in greater detail and look forward to working with Councilmember Leventhal and Council staff to achieve our common goals.

Thank you for allowing me to share with you the County Executive's support for and recommendations with you on Bill 34-13.

Office of the Director



OFFICE OF THE COUNTY ATTORNEY

Isiah Leggett  
County Executive

Marc P. Hansen  
County Attorney

**MEMORANDUM**

TO: Patricia Brennan  
Legislative Officer, Montgomery County DHHS

FROM: Marc P. Hansen  
County Attorney

VIA: Lena Kim *Lena Kim*  
Associate County Attorney  
Division of Health and Human Services

Loretta Shapero *Loretta Shapero*  
Associate County Attorney  
Division of Health and Human Services

DATE: January 7, 2014

RE: Bill 34-13, Interagency Commission on Homelessness - Established  
County Law File No. A14-00002

**Overview:**

The Office of the County Executive referred Bill 34-13, Interagency Commission on Homelessness, to the Office of the County Attorney for comment. As a preliminary matter we raise two points, both related to the fact that the Commission established by Bill 34-13 is intended to also operate as the governing board for the Continuum of Care (the "Board")<sup>1</sup>, which is a requirement for funding from the United States Department of Housing and Urban Development ("HUD") under the HEARTH Act.<sup>2</sup> First, we understand that the present

<sup>1</sup> The Continuum of Care is required to formulate the Board by August 30, 2014. As this deadline is rapidly approaching and for the sake of county resource efficiency and effectiveness, the Commission and the Board would be the same entity rather than two separate, yet similar, governing bodies.

<sup>2</sup> Continuum of Care is a program established by the United States Department of Housing and Urban Development under section 422 of the McKinney-Vento Act. Subsequently the Homeless Emergency Assistance and Rapid

composition of the Continuum of Care is in agreement with the Commission also operating as its Board.<sup>3</sup> However, ultimately it is up to the Continuum of Care to fulfill its regulatory requirements, and the County's Commission can only act as the governing board for the Continuum of Care with its approval. Second, HUD has issued an Interim Final Rule for the Continuum of Care that includes rules about the establishment and operation of the Board (set forth at 77 Fed. Reg. 147 (July 31, 2012) (to be codified at 24 C.F.R. Part 578)). If the Commission is to serve as the Board, then an analysis of the fulfillment of the requirement of the Continuum of Care Board under the HUD Rules is necessary. In order to effectively operate as the Board, the Commission will need to also comply with these applicable rules.

In reviewing Bill 34-13, we therefore first review the Council Bill alone, separate and apart from the requirements of the HUD Interim Final Rule. We next analyze Bill 34-13 as it compares to the requirements for the Board set forth in the pertinent part of the Interim Final Rule.

**I. Bill 34-13, Interagency Commission on Homelessness- Established**

Bill 34-13 creates an interagency commission to address issues of homelessness and provides requirements for membership and duties of such a commission (hereinafter the "Commission"). The issues are listed below:

a. Number of Members:

- i. Line 11 establishes that the Commission is comprised of 25 members -- eight mandatory ex-officio members (Lines 14-24), eight invited ex-officio members (Lines 26-38), five Montgomery County Continuum of Care representative members (Line 40 and 41), and four members of the public including one homeless/formerly homeless resident and one hospital representative (Lines 42-45). Line 11 should be amended to omit a specific number of members because it is possible that there can be less or more than 25 member. The amendment should specify that the number of members should be an odd number. As drafted, ex-officio members can also be serving as representatives of the Montgomery County Continuum of Care and therefore one person may fulfill two requirements since the bill does not indicate that the five representatives in Line 40 and 41 are not to be the ex-officio members listed prior. Also, as the eight members listed in Lines 26-38 are only required to be invited, there is no guarantee that they will agree to accept and serve on the Commission. The potential for more than 25 members is discussed further at section II.b.ii.4 of this memorandum.

b. Term of Members:

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Transition to Housing Act of 2009 (hereinafter "HEARTH Act") codified the Continuum of Care planning process. A set of interim rules for the Continuum of Care was established July 31, 2012 and codified in the Code of Federal Regulations under 24 CFR Part 578 (hereinafter referred to as "Rules").

<sup>3</sup> It is important to note that 24 CFR Part 578 specifically permits a Continuum of Care to "combine more than one metropolitan city or county into a geographic area" in which case this Continuum of Care could potentially branch out beyond Montgomery County. The analysis within this memorandum is limited to the current Montgomery County Continuum of Care.

- i. Lines 46-48 require that each member serve three years.
    1. This should not be applicable to ex-officio members listed under Lines 14-38 as it is quite foreseeable that these members may fulfill those required positions for more than three years.
    2. Ambiguity also exists in that Bill 34-13 is unclear as to whether members who serve the term of three years can be reappointed to membership on the Commission after the expiration of their term. If permitted to be reappointed, it should be noted that §2-148(a)(2)(B) of the County Code permits reappointment of the individual(s) who are the ex-officio members in Lines 14-23 through the exception of "unique circumstances."
  - ii. Lines 110-112 indicate that the County Executive must stagger the terms of the members so that one third of the members expire each year.
    1. This provision should not be applicable to ex-officio members listed under Lines 14-38 as these ex-officio members often serve those positions for more than three years.
  - iii. Section 2-148 of the County Code dictates Appointments and Removals for committee members stating reasons such as absenteeism and other circumstances.
    1. These should also not apply to the ex-officio members and the language indicating such is absent from Bill 34-13.
- c. Identity of Members:
- i. The Director of the Family Justice Center listed in Line 24 is a state employee and should be listed under the category of those members who must be invited to serve as ex-officio members.
  - ii. In general, Lines 14-23 would have explicit clarity if it was specified that these individuals are Montgomery County Employees. For example, Line 14 should read Director of the Montgomery County Department of Health and Human Services so as to distinguish itself from the United States Department of Health and Human Services.
- d. Other Items:
- i. Line 50 should substitute the word "Commission" in place of "Group."
  - ii. "Promote" in Line 64 is ambiguous as to the scope and details of the duties of the Commission.
  - iii. "Monitor" in Line 68 is ambiguous as to the supervisory authority for this Commission to be acting in this capacity over the Montgomery County Continuum of Care components.
  - iv. The phrases identified in Lines 71-75 would provide more clarity if the definition of each phrase is included.
  - v. Line 103-105 prohibits the Commission from engaging in any legislative advocacy at the state or federal levels without prior approval. These lines specifically prohibit advocacy, yet advocacy authority has not been expressly delegated to the Commission in the "Duties" section of Bill 34-13. Also, in Lines 98-99 the Commission is to recommend legislative or

regulatory changes to implement the Continuum of Care strategic plan, which could be considered a form of legislative advocacy on a federal level. As an example, HUD invited public comment on the Rules, specifically ones regarding the proposed requirements of the Board. An appropriate source of comments would be the Continuum of Care and its Board, which may be considered a form of legislative advocacy on the federal level.

## **II. Governing Board for the Continuum of Care**

The Commission created under Bill 34-13 would be comprised of many of the same individuals who would be required to serve on a governing board for the Montgomery County Continuum of Care (hereinafter referred to as the "Board") under the United States Department of Housing and Urban Development (HUD) regulations. Also, the language of Bill 34-13 demonstrates a desire for the Commission to have a supervisory role over the Montgomery County Continuum of Care (hereinafter referred to as "County CoC") which would be similar to the function of the Board. Therefore a cross-analysis of the requirements under the HUD Interim Rules is necessary to ensure that the County CoC continues to comply with HUD rules so as to continue to receive HUD funds.

### **a. Requirements under HUD Rules for the Board**

- i. *Specific Mandatory Requirements-* Under §578.5(b) of the Interim Rules, Continuums of Care must have a board that makes decisions on behalf of the Continuum. Continuums of Care have two years from August 30, 2012 (the effective date of these Interim Rules) to establish such a board that meets the two mandatory requirements for the Board under the Interim Rules:
  1. The Board must be representative of the relevant organizations and of projects serving homeless subpopulations; and
  2. The Board must include a homeless or formerly homeless person.
- ii. *Proposed Requirements-* The Interim Rules propose four additional criteria for the Board that are not mandatory but are being considered:
  1. The Board must have a chair or co-chairs;
  2. The Board must be composed of an uneven number of members serving staggered terms;
  3. The Board must include members from the public and private sectors; and
  4. The Board must include a member from at least one Emergency Solutions Grant program (ESG) recipient's agency located within the Continuum of Care's geographic area.
- iii. *Other Requirements under the Interim Rules*
  1. Under §578.5(a) the relevant organizations within the Continuum of Care include:
    - 1) Nonprofit homeless assistance providers
    - 2) Victim service providers
    - 3) Faith-based organizations

- 4) Governments
  - 5) Businesses
  - 6) Advocates
  - 7) Public housing agencies
  - 8) School districts
  - 9) Social service providers
  - 10) Mental health agencies
  - 11) Hospitals
  - 12) Universities
  - 13) Affordable housing developers
  - 14) Law enforcement
  - 15) Organizations that serve veterans and homeless/ formerly homeless individuals
2. Under §578.7(a)(3) the Continuums of Care must “adopt and follow a written process to select a board to act on behalf of the Continuum of Care. The process must be reviewed, updated, and approved by the Continuum at least once every five years.”
  3. Under §578.7(a)(5) the Health Management Information Systems Lead and the collaborative applicant are to create and update annually a governance charter which would include “a code of conduct and recusal process for the board, its chair(s), and any person acting on behalf of the board.”
  4. Under §578.95(b) no Continuum of Care board member is permitted to “participate in or influence discussions or resulting decisions concerning the award of a grant or other financial benefits to the organization that the member represents.”

b. Application of Board Requirements to the Commission under Bill 34-13

i. *Membership of the Commission and the Board*

1. Under Bill 34-13, all of the relevant organizations are explicitly mentioned except for faith-based organizations, universities, businesses, affordable housing developers and non-profit homeless assistance providers. These five relevant organizations could fall within Lines 40-41, which require the appointment of five members who are representatives of the County CoC, or within two of the four members of the public mentioned in Line 42, but the Bill does not explicitly explain how representation from these five organizations is to be accomplished.
2. Bill 34-13 also explicitly requires that at least one member be a homeless or formerly homeless resident of Montgomery County, which complies with the HUD regulations for Board membership as well. Also, Bill 34-13 omits the proposed, though not mandatory, requirement of one Board member being from at least one Emergency Solutions Grant program (ESG) recipient’s agency

within Montgomery County. Additionally, Bill 34-13 also explicitly requires membership from the public sector, but does not explicitly require membership from the private sector, which is a proposed, and not mandatory, requirement for a Board member. If either requirement becomes mandatory the identified member might fall within one or the general categories, or an amendment would need to be introduced.

*ii. Components of the Commission and the Board*

1. Line 51 of Bill 34-13 requires a Chair and Vice Chair for the Commission which is consistent with the proposed requirement for the Board to have a chair or co-chairs.
2. Lines 110-112 of Bill 34-13 require staggered terms for members of the Commission which is consistent with the proposed requirement for staggered terms for Board members.
3. Bill 34-13 should be amended to require that the membership for the Commission should be an uneven number at all times.
4. Line 11 of Bill 34-13 requires 25 members of the Commission which is an uneven number and therefore is consistent with the proposed requirement for the Board to be composed of an uneven number of members. However, as noted above, a potential issue may arise if invited ex-officio members decline to serve as Commission members or if certain ex-officio members serve multiple functions in terms of membership requirements. Another issue may arise in that there may be more than 25 members required if there are more "relevant organizations" or projects that need to compose the Board.

*iii. Remaining Provisions of the Board Requirements and the Commission*

1. Bill 34-13 creates the Commission which is currently intended to be the same entity as the Board. Under §578.7(a)(3) of 24 CFR Part 578, the County CoC is required to "adopt and follow a written process to select a board...." If the County CoC chooses to adopt a written process different than that detailed in Bill 34-13, the Commission could not act as the Board. Similarly, this written process "must be reviewed, updated, and approved by the Continuum at least once every five years." The practical implication here is that the County CoC would need to review its written process and if it ever differs from the codified version of Bill 34-13 once enacted, then the County CoC would either need to amend its written process to mirror the law, or the Commission will not be able to act as the Board.
2. The Health Management Information Systems (HMIS) Lead under the County CoC is the Montgomery County Government. Therefore under §578.7(a)(5) of 24 CFR Part 578, the Montgomery County Government must create and annually update

the governance charter that includes the code of conduct and recusal process for the Board. No such code of conduct or recusal process is referenced within Bill 34-13. Bill 34-13 could serve as the governance charter, if the HMIS Lead so decides, but Bill 34-13 would need to then explicitly include the code of conduct and recusal process for the Board and would be subject to annual review and updates.

3. Bill 34-13 also omits the requirement under §578.95(b) of 24 CFR Part 578 pertaining to lack of participation in decisions regarding financial benefits to the member's organization. This is particularly important because Lines 96 - 97 of Bill 34-13 require the annual report of the Commission to include recommendations for the capital and operating budget of the next fiscal year.
- c. Application of CoC Requirements to the Commission under Bill 34-13
- i. Under §578.7(a) of 24 CFR Part 578, there are other requirements of the general Continuum of Care, which are not specific to the Board. Some of these duties are consistent, however, with the duties of the Commission under Bill 34-13:
    1. §578.7(a)(4) of 24 CFR Part 578 requires that additional committees, subcommittees, or workgroups be appointed which is consistent with Lines 56-61 which permit the Commission to establish subcommittees.
    2. §578.7(a)(6) of 24 CFR Part 578 requires the establishment of performance targets for population and program type and monitoring of recipient and subrecipient performance. §578.7(a)(7) of 24 CFR Part 578 requires an evaluation of outcomes of projects under the Emergency Solutions Grants programs and the Continuum of Care program, and to report such evaluations to HUD. Lines 68-79 and Lines 93-95 of Bill 34-13 require the Commission to review and monitor programs under the County CoC, to recommend improvements of the County CoC to the Executive and Council, and to identify gaps in the County CoC within the annual report. These functions of the Commission would substantively compile the evaluation that is required under §578.7(a)(7) of 24 CFR Part 578 and therefore the HUD evaluation may be practically formulated by the Commission, although Bill 34-13 does not explicitly mention this. Bill 34-13 also omits the establishment of performance targets, yet includes the monitoring of the performance. If such performance targets were established by the County CoC, those should be referenced and/or incorporated into the relevant portion(s) of the Bill. Otherwise, Bill 34-13 should indicate the establishment of such performance targets.

### **III. Conclusion**

The proposed legislation of Bill 34-13 overlaps with the Board requirements and general requirements of the Continuums of Care under 24 CFR Part 578. However, the legislation does not mention that it is functioning as the Board or following the HUD Rules for Continuums of Care. Such information may be appropriate to include within the preamble of the legislation and/or in the body of the legislation. It is also important to note that the above analysis was based on the Interim Rules which became effective August 30, 2012. As these federal rules continue to develop, it will be imperative to adapt and modify the legislation so as to comply with them. Lastly, the above is not an overall analysis of whether the County CoC complies with the HUD Rules of the Continuums of Care, but the scope of the analysis was limited to the relevant portions of the HUD Rules and the formulation of the Commission under Bill 34-13.