



## KS-507 BOS COC REALLOCATION, APPEAL POLICY & PROCEDURES

Approved Performance & Compliance Committee: 2.17.2022	Approved Steering Committee: 2.18.2022
Revised Performance & Compliance Committee: 6/15/2023	Revised Steering Committee: 6.16.2023

### POLICY

Reallocation refers to shifting Continuum of Care (CoC) funds in whole or part from existing eligible renewal projects to create one or more new projects without decreasing the CoC's Annual Renewal Demand (ARD). New projects created through reallocation must meet, at a minimum, the requirements set forth in the annual CoC Notice of Funding Opportunity (NOFO), project eligibility and project quality thresholds established by HUD.

The U.S. Department of Housing and Urban Development (HUD) states that one of the primary responsibilities of the Continuum of Care (CoC) is to develop a reallocation process for projects funded with CoC funds. Each year HUD determines eligible reallocation project types in the CoC NOFO. Reallocation may be voluntary or involuntary, in whole or in part. CoC funding allocations are made to serve the community rather than individual programs. Additionally, the CoC must approve or disapprove an applicant's decision to voluntarily reallocate its program funds.

Decisions to reallocate funds shall be evidence-based. Each CoC funded project will be evaluated annually using specific information to include but not be limited to the approved Rank and Review process which includes, data entered into HMIS (or comparable database), HUD Annual Performance Report (APR), Housing Inventory Count (HIC), the CoC project application, and local needs/priority assessments. Reallocation action will be taken with the goal of alignment with HUD and HEARTH ACT policy guidance, alignment with the Federal strategic plan to prevent and end homelessness, performance criteria specified in the annual HUD NOFO, and local data and priorities. The Kansas Balance of State CoC defines involuntary reallocation as appropriate and as necessary per the language in the annual NOFO and/or the results of project monitoring as established by the KS-507 BoS CoC Monitoring & Technical Assistance Guidelines. Voluntary reallocation is an act of permanently surrendering HUD grant funds for part of, or a whole, project. These funds are then available for new project applicants or expansion projects. As noted by HUD, voluntary reallocation does not guarantee the agency will be chosen to operate a new eligible project utilizing the reallocated funds.



## **GUIDING PRINCIPLES**

Reallocating funds is an important tool used by CoCs to make strategic improvements to their homelessness system. Through reallocation, the CoC can create new, evidence-informed projects by eliminating projects that are underperforming or are more appropriately funded from other sources. Reallocation is particularly important when new resources are not available. Additional guiding principles include:

- All funds are for the betterment of the community, not solely the individual agency.
- Through a coordinated system, agencies can use their funds in a more effective and efficient way to better support the community's homeless households in reaching permanent housing.

### **General Reallocation Procedures:**

1. Each year, the Kansas Statewide Homeless Coalition (KSHC) as the collaborative applicant, in coordination with the Performance and Compliance Committee, carefully reviews the HUD NOFO when released, and uses the guidance noted within the NOFO to develop prioritization and scoring practices for the CoC. *(Note: Local community priorities, established using local data, gaps analysis, and/or needs assessments, will be given priority consideration and may take precedence over HUD's priorities.)*
2. The process used in determining any reallocation of funds is structured in such a way that it increases system performance and mitigates perceptions of reallocation as a threat to an agency or program, i.e., quality programs could be reallocated if they do not fulfill a current community priority need.
3. A Rank & Review Panel is established and trained as set forth in the Ranking Policy and associated procedures.
4. New projects created through reallocation must meet, at a minimum, the requirements set forth in the annual CoC NOFO and project eligibility and project quality thresholds established by HUD and the CoC.

### **Voluntary Reallocation Procedures:**

1. Voluntary reallocation happens when, using local data, an agency determines its project:
  - a. is not meeting local needs,
  - b. does not have the capacity to continue and/or
  - c. would better serve the CoC through a reduction of funds.
2. Currently funded CoC project applicants interested in voluntarily reallocating (in whole or part) shall notify KSHC in writing of their intent during the Letter of Intent process.
3. Consideration is given to the potential impact that voluntary reallocation may have on increasing homelessness resulting from a reduction in services caused by the reallocation.

### **Involuntary Reallocation Procedures:**

1. Any program within the BoS CoC that has expended less than 90 percent of project funds during the last two operating years may have funds partially or fully reallocated during the next CoC Program Competition.
2. The lowest ranked renewal projects will be evaluated by the Rank & Review Panel for possible reallocation, in whole or in part. In addition, the Rank & Review Panel will also use these factors to determine reallocation:
  - a) Non-compliance with HUD or local policies and procedures.
  - b) Outstanding obligation to HUD that is in arrears or for which a payment schedule has not been agreed upon.
  - c) Audit finding(s) for which a response is overdue or unsatisfactory.
  - d) History of inadequate financial management accounting practices.
  - e) Evidence of untimely expenditures on prior award.
  - f) History of other major capacity issues that have significantly impacted the operation of the project and its performance.
  - g) Timeliness in drawing down funds and reimbursing subrecipients for eligible costs as applicable. HUD will consider a project applicant as meeting this standard if it has drawn down grant funds at least once per month.
  - h) Other factors determined in the competition's priorities.

3. If the projects do not meet the local threshold for performance on these metrics, the lowest performing project may be recommended for reallocation in whole or in part. If a project is the only one that serves a specific sub-population, partial reallocation may be recommended, with other lowest ranking projects also being evaluated for reallocation.

4. Project applicants administering a project that has been recommended for reallocation will receive notification in writing from KSHC, which will include the reasons for the reallocation no later than 15 days before the application deadline, in accordance with HUD's NOFO policies and procedures.

5. Reallocated applicants may appeal according to the appeal procedures below.

### **APPEAL POLICY**

Agencies whose renewal project(s) have been rejected and meet one of the policy criteria for appeal may appeal the decision within three (3) business days of the notification of project rejection via the process described herein. This policy is reviewed annually for adherence to the current year's NOFO.

#### **Items that CAN be Appealed:**

1. Violation of federal guidelines on the part of KSHC, Rank & Review Panel, or Ks-BoS CoC
2. Violation of CoC written policies on the part of KSHC, Rank & Review Panel, or Ks- BoS CoC
3. Data that has not been monitored by KSHC or submitted to HUD via the Annual Performance Report (APR)
4. Participation points (to prove attendance as required by the Participation Requirements for Eligible Applicants policy)



### **Items that CANNOT be Appealed:**

1. Errors or omissions on the part of the applicant
2. Threshold not met by the applicant
3. Not attending mandatory trainings outlined in the posted timeline
4. Missing/late attachments or submissions
5. Position within ranking Tier structure
6. Data that has been monitored by KSHC, the HMIS-generated scorecard or submitted to HUD via the Annual Performance Report (APR)

### **APPEAL PROCEDURES:**

1. Appeals must be submitted within three (3) business days of rejection or reallocation by email to the designated KSHC staff person detailed in the NOFO timeline, published on the NOFO link at [www.kshomeless.com](http://www.kshomeless.com). Agencies with valid appeals must do so in writing, on agency letterhead, no more than 2 pages in length.

2. Within three (3) business days of receipt of the appeal:

A. An Appeals Subcommittee comprised of a minimum of 2 BoS CoC Steering Committee members (none of whom shall be project applicant staff), 3 Performance and Compliance Committee members, (none of whom shall be project applicant staff) and 2 Rank & Review Panel members will review eligibility for any appeal submitted through the above-mentioned process. The Appeals Subcommittee will submit their determination to the BoS Steering Committee for their concurrence. Steering Committee members representing funded agencies will recuse themselves from the discussion.

B. The Steering Committee's final decision will be posted on the website for all CoC members, and an email message will be sent to the applicant making the appeal.

C. Further appeal is not available after the final decision of the Steering Committee, outside of a direct appeal to HUD.

3. Agencies whose rank may be affected, i.e., those whose recommended ranking is in Tier 2, may be notified as a courtesy. Such agencies will not be able to file a local appeal after the 3-day time period to appeal has passed.



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4. Project applicants whose project was rejected may appeal the local CoC competition decision to HUD if the project applicant believes it was denied the opportunity to participate in the local CoC application process in a reasonable manner. They may do so by submitting a Solo Application in e-snaps directly to HUD prior to the application dead- line. Refer to the current HUD Continuum of Care NOFO for this process.

\*\*The Appeals Process with HUD is found at 24 CFR 578.35. Sections 578.35(b)(3),

(b)(4), (c)(1), and (d)(2) which authorize HUD to establish requirements for the form and manner for appeals by applicants. \*\*