

## **The Colorado Springs/El Paso County Continuum of Care Governance Charter**

This governance charter is a living document that serves as our guidepost for informing the way our Continuum of Care (CoC) will operate. This charter will be reviewed and updated annually by the entire CoC to ensure we are consistently attending to our priorities as a community. Every five years, the membership, supported by the CoC governing board, will thoroughly revise the CoC charter, again to ensure the CoC structure and function supports our community's most pressing goals.

The CoC's CHAP ([Comprehensive Homeless Assistance Providers](#)) members are invited to serve as the inaugural membership group, and will be "grandfathered" into the CoC Membership. Further the CoC interim governing board will invite members of the community to join the CoC in advance of the first official membership meeting.

At the inaugural CoC Membership meeting, the membership will adopt this charter and appoint the Governing Board. The balance of this document articulates the purpose, function, and processes for the CoC and is referred to as the Governance Charter.

### **SECTION ONE: CoC PURPOSE, PRINCIPLES, AND FUNCTION**

There are many partners in the Colorado Springs/El Paso County Continuum of Care (CoC), all with different viewpoints about the progress each is trying to make in the fight to end homelessness. Our community has come together to create a roadmap for addressing the persistent challenges we face in taking care of our most vulnerable citizens.

This charter describes our vision for how our CoC system will be governed. Herein we provide the context for the CoC, the guiding principles and assumptions underlying our direction, and specific commentary on the function and impact we expect from our CoC.

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#### **Our Long-Term Community Goal**

We are dedicated to ensuring our community is healthy and vibrant so that...

All families and individuals have access to housing and services that allow them to optimize their self-sufficiency

To achieve this broad goal, we are committed to...

Strengthening our CoC so that we sustain a durable system of care that prevents and ends homelessness and helps individuals achieve long-term stability.

This collaborative system of care depends on...

Healthy partnerships within and among nonprofit and faith-based organizations, private businesses, governmental entities, philanthropic individuals and organizations, the investment community, and citizens.

We are committed to identifying and meeting our community's needs and satisfying the Department of Housing and Urban Development (HUD)'s definition of the Continuum of Care (CoC), and meeting those requirements.

In meeting HUD's requirements, the Colorado Springs/El Paso County Continuum of Care Program provides funding for efforts by nonprofit providers and State and local governments to quickly re-house homeless individuals and families to minimize trauma and dislocation; promotes access to and effective utilization of mainstream programs; and optimizes self-sufficiency among individuals and families experiencing homelessness.

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## Guiding Principles

Our CoC is guided by the following principles:

1. **We believe that the issues that may contribute to a household's homelessness can best be addressed once people are housed.** People who are homeless or are on the verge of homelessness should be returned to or stabilized in permanent housing as quickly as possible and connected to the resources they need to sustain housing. As a community, we share HUD's commitment to prevent homelessness, reduce length of stays in emergency shelters, and reduce recidivism as part of our approach to ensuring our community is responsive to housing needs our citizens face.
2. **We believe in a Systematic Local Strategy.** HUD expects our CoC to take a systematic approach to both reaching out to connect with those in need and providing housing and services. This is not simply a requirement, but a best practice we intend to pursue vigorously.
3. **We believe that a Collaborative Umbrella is the best approach.** Homeless initiatives organized under a collaborative system bring together service providers, consumers, businesses, public officials, and citizens to work together to identify, work toward, and achieve common goals that will facilitate the prevention of and recovery from homelessness.
4. **We are committed to meeting and respecting people where they are** as we engage and support them in moving toward a permanent housing solution.
5. The Colorado Springs/El Paso County Continuum of Care **Governance Board (GB) exists to plan and support implementation of strategies** that will support our collaborative community-based system of housing and services for those experiencing homelessness, or those persons at risk of homeless within the City of Colorado Springs and El Paso County.
6. **Our GB uses the Continuum of Care (CoC) model mandated** by the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) amendment to the McKinney-Vento Homeless Assistance Act as further described and disseminated by the Department of Housing and Urban Development (HUD) CoC Program interim rule (24 CFR Part 578) (the Interim Rule).

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## CoC Primary Functions

1. Operate the CoC
2. Designate the Administrative Lead
3. Designate the Collaborative Applicant
4. Designate a Lead Agency to operate the Homeless Management Information System (HMIS)
5. Conduct CoC Planning

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## CoC Priorities

Our CoC has four key priorities, each of which is carried out through a series of more specific and detailed actions:

1. Strategy and Planning
  - a) Provide advocacy on homeless concerns to the City and the County
  - b) Make long-range planning and policy formation recommendations to the City and the County
  - c) Determine how to fill gaps in homeless services and housing to maximize efficiency in service provision and reduce/avoid duplication
  - d) Develop a strategic funding model that will support and sustain the CoC system of care
  - e) Create a VISION for our community's approach to preventing and ending homelessness and continuously advance toward that vision
2. Community Engagement and Accountability
  - a) Promote community-wide commitment to address HUD's goal of preventing and ending homelessness
  - b) Establish and maintain an accountable, responsive infrastructure for addressing and eliminating homelessness
  - c) Optimize self-sufficiency among individuals and families experiencing homelessness
  - d) Encourage and develop public understanding and education on homelessness and housing issues in the City and County
3. Coordination
  - a) Provide a forum for coordination among all government entities and local agencies related to homelessness and prevention
  - b) Promote coordinated access to mainstream resources
  - c) Design process for evaluating the outcomes of homeless housing and services programs, especially those funded through HUD
  - d) Facilitate on-going coordination and collaboration among all the components of the homeless services system to deliver services, conduct planning and resource management, fund raising, and policy and program development
  - e) Access to funding for local nonprofit providers and governmental entities that implement strategies to rapidly rehouse individuals experiencing homelessness
  - f) Collect data through PIT counts and housing inventory
  - g) Develop a collaborative process for development, approval and submission of a CoC Homeless Assistance Grants application to HUD
  - h) Establish priorities for funding HUD Homeless Assistance Grants projects
4. Quality Assurance
  - a) Assess effectiveness, quality, efficiency, access, and availability of homeless services and support including housing through the community
  - b) Encourage homeless housing and service providers to adopt, use and refine best and promising practices to define key indicators and outcome-based measurements

- c) Ensure effective operation of, and consistent participation by, HUD Homeless Assistance Grants programs in the HMIS
- d) Provide oversight to the ongoing implementation, expansion and continued quality improvements for the HMIS program

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### **CoC Responsibilities**

1. The CoC has specific duties it is responsible for performing. Items a – d will be fulfilled by the membership as a whole and as supported by the Governing Board. Items e – k will be delegated to the Governing Board, which will administer/oversee the duties and ensure performance per the specifics set forth in this charter.
  - a) Hold annual membership meetings, with published agendas, at least semi-annually
  - b) Make public invitations for new members to join annually
  - c) Adopt and follow a written process to select a board to act on behalf of the CoC. This process will be reviewed, updated, and approved by the CoC at least once every five years
  - d) Develop, follow, and update the CoC governance charter annually in consultation with the Collaborative Applicant and the HMIS lead according to subpart B of the Interim Rule. The Charter articulates the CoC function
  - e) Establish and monitor performance targets for population and program type with both CoC and ESG recipients and subrecipients. As appropriate, intervene with poor performers
  - f) Evaluate and report outcomes for all projects funded under the CoC and ESG; and report to HUD
  - g) Establish and operate either a centralized or coordinated assessment system that provides an initial, comprehensive housing and services needs assessment for individuals and families in compliance with HUD requirements
  - h) Establish and consistently follow written standards for providing CoC assistance for all CoC fund recipients within the City of Colorado Springs and El Paso County (see addendum 2 for specific directives)
  - i) Establish a Governing Board to act on behalf of the Continuum and comply with the conflict-of-interest requirements (see Section 5)
  - j) Designate and operate an HMIS
  - k) Continuum of care planning. The Continuum must develop a plan that includes:
    - i) Coordinating the implementation of a housing and service system within its geographic area that meets the needs of the homeless individuals (including unaccompanied youth) and families.
    - ii) Plan and conduct, at least biennially, a point-in-time count of homeless persons within the geographic area that meets the following requirements:
      - (1) Conduct an annual gaps analysis of the homeless needs and services available within the geographic area;
      - (2) Provide information required to complete the Consolidated Plan(s) within the Continuum's geographic area; and
      - (3) Consult with State and local government funding program recipients within the Continuum's geographic area on the plan for allocating ESG and other program

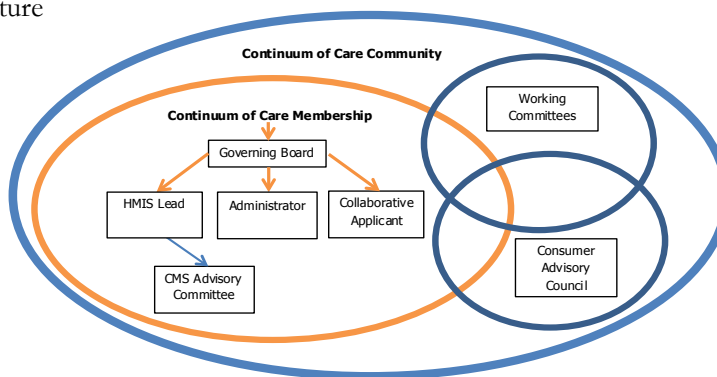
funds and reporting on and evaluating the performance of all CoC and ESG grant funded program recipients and subrecipients.

## SECTION TWO: COC MEMBERSHIP STRUCTURE

Our CoC is comprised of a diverse and broad representation from across all sectors of the City, County, and State including, but not limited to: nonprofit and for profit homeless service providers inclusive of health, mental health, and substance abuse providers, local, state, and federal government representatives, businesses and corporations, philanthropic organizations and individuals, and persons currently or having formerly experienced homelessness.

**The Membership approves the Governing Board at one of its semi-annual meetings.**

This chart illustrates the CoC structure



### 1) Membership Criteria

- a) We maintain an open membership policy that supports dynamic diversification of our membership.
- b) Members are invited to apply through a simple application process to ensure we are encouraging active participation in the CoC. Members must have expressed interest or knowledge in addressing the issues of homelessness.
- c) Invitations to join the CoC membership will be solicited annually.
- d) Organizations and individuals joining the CoC will be subject to acceptance by a vote of the existing members.
- e) Regular meetings of the Membership will be held at least semi-annually during which the following will occur: new membership appointments, governing board membership confirmed, and recommendations from committees and task forces are considered.
- f) Members are encouraged to serve on a subcommittee or task force.
- g) Leadership positions are specific to the individual. Eligibility for a leadership position is contingent upon an individual's continued affiliation as a member or with a member organization.
- h) As stated earlier, CHAP members will be automatically "grandfathered" into the CoC membership. The CHAP will continue as a working committee of the CoC for the time being.

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## 2) Membership Representation

The CoC seeks to be as inclusive as possible to fully reflect the community's commitment to fighting homelessness. This initial list is robust, but we recognize that it is not an exhaustive list.

Affordable Housing	Health Respite Care
Business/Business Associations	Hospitals/Community Health
City of Colorado Springs	Housing Authority
CoC Administrator	Justice/Corrections
CoC Collaborative Applicant	Library
CoC HMIS Lead	Mental/Behavioral Health
Colorado Division of Housing	Outreach
Currently/Formerly Homeless	Permanent Housing
Consumers	Pikes Peak Workforce Center
Department of Human Services	Seniors
Detox/Addiction Recovery	Social Security Administrations
Education/School Districts	Soup Kitchen/Pantry
El Paso County	State of Colorado
Emergency Services	Transitional Housing
Emergency Shelter	Transportation
Faith-Based	Universities
Family Violence	Veterans
Financial Institutions	Veterans Administration
Funders/Foundation	Youth

The Governing Board is responsible for organizing and conducting all meetings of the membership. Its duties include:

- a) Conduct Membership meetings as noted above, at least two times each year. However, this schedule may be amended from time-to-time to address pertinent issues the need to be discussed or voted on prior to the next scheduled meeting.
- b) Provide reasonable notice for all meetings related to the CoC including: the Governing board; subcommittees, councils, and ad-hoc committees; and the CoC General Membership. Generally, this will mean 10 days' notice posted on the CoC website or that of the Collaborative Applicant. For the Governing board, meeting notice may be posted with a minimum of 24-hours notice on the CoC website.
- c) Each meeting shall have on its agenda the opportunity for members of the public to provide input and comment.
- d) The Governing Board Chair/Vice Chair shall preside over CoC Member Meetings and the Governing Board meetings when present or designate an alternate to preside. All subcommittee, GB, and task force meetings shall be presided over by their respective chairs/vice-chairs.
- e) Discussion and voting during agenda action items shall be held in accordance with Robert's Rules of Order and as outlined in the next section.

- f) Each meeting will include the review and approval of minutes, consideration of recommendations from committees established as may be necessary to conduct the business of the CoC and its planning/monitoring function, as well as HMIS governance.
- g) Proceedings of all meetings will be documented as minutes by the designated Secretary/Treasurer and submitted to the CoC for distribution to the Membership.

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### **3) Voting Procedure for the General Membership**

- a) The membership is responsible for voting on the Governance Charter and the Governing Board each year. The Governing Board will be presented as a slate vetted by the GB's governance committee and the GB.
- b) Discussion and voting during meetings shall be held in accordance with Robert's Rules of Order.
- c) Approval of actions requires a simple majority vote of those present at the meeting.
- d) Recusal by members will be taken into account and will not adversely affect the ability of the GB to declare a quorum.

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### **4) Subcommittees, Councils, and Ad-Hoc Committees**

Members will be encouraged to volunteer to serve on a committee of their choosing. Members are subject to appointment by the Chair of the specific committee. Regular attendance and participation is expected. At the outset, the CoC will establish a small group of committees to advance the CoC on an annual basis and define that function within this charter. These committees are listed below. In addition, the CoC is also committed to receiving input from any and all CoC members for both review and revision of the CoC charter on an annual basis.

- a) CoC Structure and Governance Committee: This committee is responsible for reviewing best practices and understanding requirements. At least annually, in consultation with the HMIS lead and collaborative applicant, it reviews and recommends to the Governing Board revisions to the Governance Charter, including the structure, processes, and documentation needed to meet community purposes as well as HUD HEARTH or other City, State, and Federal requirements. Any and all changes must be approved by the membership at one of its regularly scheduled meetings. It ensures implementation of approved, modified or new processes. During its first year, the committee will meet monthly; after that it will meet as needed to carry out the tasks.
- b) CoC Membership: The committee is responsible for developing the membership application, monitoring membership application submissions, monitoring meeting participation, and ensuring compliance with Robert's Rules of Order for voting purposes. This committee will meet in on an as-needed basis.
- c) CoC Monitoring, Review, Ranking and Prioritization Committee: This committee creates policies, procedures, forms and documents for monitoring, reviewing, ranking and prioritizing HUD-funded CoC projects. It reviews and monitors project performance (APR's, data quality and completeness, capacity utilization, outcomes, and other metrics defined by the Governing Board). It ranks and prioritizes projects during the CoC Program competition phase, and makes recommendations to the Governing Board. It identifies low performing projects needing attention and makes recommendations to the Governing Board. This committee meets at least monthly.

- d) CMS Advisory Committee: This committee establishes and maintains policies, procedures, and minimum data requirements for the Client Management System (our local HMIS). It monitors data quality and completeness at the project level. It reviews and approves baseline forms and documents. It reviews system updates; recommends upgrade and development priorities; provides general oversight of HMIS function and usage in the CoC; and, ensures implementation and meeting of standards and requirements. Members of this committee participate in and provide inputs on needs and priorities to the Colorado CIS, which is an effort to address data and process needs at a state level. Members also participate in the development and deployment of the coordinated intake and assessment process, rapid entry process, and other new capabilities. This committee meets at least monthly.
- e) Consumer Advisory Council: This committee is comprised of currently or formerly homeless consumers. While providers identify many members, the committee is open to consumers not affiliated with specific providers. The committee will identify consumer priorities, review matters requested by the Governing Board, provide inputs to processes and program requirements, assist in identification of barriers and potential solutions, and generally provide consumer-oriented recommendations to the Governing Board. The committee meets at least monthly.
- f) Voting Procedure:
  - i) Discussion and voting during meetings shall be held in accordance with Robert's Rules of Order:
  - ii) Approval of actions requires a simple majority vote of those present at the meeting. Votes are limited to one per agency:
  - iii) Recusal by members will be taken into account and will not adversely affect the ability of the committee leadership to declare a quorum:
  - iv) Consensus will govern all meetings and votes are limited to one vote per committee member. All actions will be determined by majority vote:
- g) Reporting: Committees will provide a quarterly report/update to the Governing Board. More frequent reports are welcome should the topic demand a decision or input.

### **SECTION THREE: CONTINUUM OF CARE GOVERNING BOARD**

The general membership of the CoC is responsible for forming the Governing Board, which is authorized by the Membership to make decisions on behalf of the CoC.

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#### **1) Board Function**

- a) The GB acts as the Executive Committee of the Membership
- b) The GB shall convene monthly to conduct its governing business
- c) This schedule may be amended from time to time to address pertinent issues and to accommodate members
- d) The GB shall establish and populate working committees, advisory councils, and ad-hoc subcommittees as needed to advance the CoC
- e) The GB shall conduct the business of the CoC planning and operations and HMIS governance vis-à-vis an active committee structure whose responsibility it is to provide recommendations to the GB
- f) Schedule and hold regular meetings of the full membership at least twice per year



- g) Invite and solicit new membership at least annually from within the CoC boundaries
- h) Create, adopt, and follow a written process to select the Governing Board
- i) Review, update, and approve the GB selection process at least once every five years
- j) As defined in (Section 1) the GB is responsible for ensuring development and implementation of the strategic plan and quality assurance activities are conducted
- k) Ensuring adequate opportunities for public input into the CoC
- l) Defining and maintaining policies, procedures, and required plans for the following areas:
  - i) Coordinated Access Planning
  - ii) Discharge Planning
  - iii) Performance Measuring and Monitoring
  - iv) PIT/HIC Policies and Procedures
  - v) CoC Homeless Assistance Program Competition

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## **2) Governing Board Meetings**

The GB shall:

- a) Provide notice of all meetings in a timely fashion, with at least 24 hours' notice posted on the CoC website or that of the Administrator
- b) Review and approve the minutes
- c) Consider committee recommendations
- d) The Chair/Vice Chair shall preside over all meetings or, if not present, designate a leader in his/her absence to ensure meeting integrity
- e) Provide meeting proceedings as recorded by the designated GB Secretary, and provided as minutes to the membership
- f) Regular Board meetings shall include:
  - i) Strategy check points for the CoC plan to prevent and end homelessness
  - ii) Program reports from HMIS, CoC, City of Colorado Springs, El Paso County
  - iii) Working and ad-hoc committee reports
  - iv) Legislative update
  - v) Subject-matter specific reports

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## **3) Voting Procedure for Governing Board**

- a) Discussion and voting during meetings shall be held in accordance with Robert's Rules of Order
- b) A quorum will be considered met when a simple majority of the GB membership is present
- c) When a quorum does not exist, the business of the voting entity can still be conducted subject to formal approval by use of telephonic, faxed, mailed, or emailed votes in accordance with Colorado law<sup>1</sup>

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<sup>1</sup> CRS § 7-127-107

- d) Proxy voting is not permitted
- e) Recusal by members will be taken into account and will not adversely affect the ability of the GB to declare a quorum
- f) Robert's Rules of Order shall guide the procedures for discussion and voting during agenda action items

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#### **4) Governing Board Composition and Officers**

- a) The Governing Board shall be comprised of representatives of the relevant organizations and projects serving homeless subpopulations; and include at least one homeless or formerly homeless individual; all GB members must be active members of the CoC.
- b) The GB will range in size from 13-21 members.
- c) At a minimum, the CoC Governing board officers, and thus the CoC, shall be a Chair (person), a Vice-Chair (person), and a secretary/treasurer.
- d) The GB shall elect the Chair, Vice-Chair, and Secretary/Treasurer.
- e) The City of Colorado Springs, El Paso County, and the Colorado Springs Housing Authority will identify representatives who serve on the GB in ex-officio capacity.

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#### **5) Governing Board Member Expectations**

- a) Attend all regularly scheduled board meetings
- b) Participate fully in meetings by being prepared, arriving on time, and allocating adequate time to prepare for and attend each meeting to completion (up to six hours per month)
- c) Adhere to the three duties of loyalty, obedience, and care<sup>2</sup>
- d) Participate as requested in field work (up to 10 hours per year)
- e) Terms: Governing Board members may serve up to two three-year terms. The inaugural board terms will be staggered as follows: 30% of members will have a one-year renewable term; 30% will have a two year renewable term; and the balance will have a three-year renewable term. Members are expected to participate in every meeting and function. Should a member miss three or more subsequent meetings, a member of the Executive Committee will address the director and determine a course of action suitable to ensuring the CoC is healthy and functioning

### **SECTION FOUR: COC GOVERNING BOARD ADMINISTRATIVE FUNCTIONS**

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The CoC, governed by the Governing Board, develops and follows this governance charter that encompasses the policies and procedures required by HUD's Interim Rule and HUD's HMIS mandates and will designate the organizations to fulfill the key roles necessary for a healthy CoC: the Collaborative Applicant, the HMIS Lead, and Administrative Lead.

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<sup>2</sup> CRS § 7-128-401

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At a minimum, our CoC will:

- a) Ensure conduction of the Point-In-Time Study (PIT) of the homeless population consistent with HUD's requirements. The CoC will review and approve the PIT Study Plan annually;
- b) Review, revise, and approve a privacy plan, security plan, and data quality plan for HMIS;
- c) Review and update the governance charter and present it for approval by the full membership at least annually;
- d) Establish a set of CoC system performance targets to measure, monitor, and evaluate performance, and as appropriate, intervenes with poor performers;
- e) Establish and approve standards for all HUD funded programs;
- f) Ensure that a Code of Conduct with a recusal process is written, followed, and updated as needed;
- g) Establish a recusal process for GB members and the CoC membership;
- h) Meet annually to review and act on the annual funding requests and scoring of applications in response to the timing requirements of the HUD CoC Program Notice of Funding Availability (NOFA);
- i) Designate a Collaborative Applicant annually to manage HUD's CoC application process and obtain approval for the CoC;
- j) Coordinate oversight of the HMIS program with the Collaborative Applicant and the membership.

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## **1) Collaborative Applicant**

Once the GB has approved the CoC selection of a Collaborative Applicant, the Collaborative Applicant will be charged with the following duties:

- a) Managing the HUD CoC application process;
- b) Consult with grant recipients regarding performance targets, evaluation of outcomes, and general performance expectations;
- c) Submit CoC grant application on behalf of the CoC;
- d) Participate in GB meetings.

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## **2) HMIS Lead**

Once the GB has approved the CoC selection of the HMIS Lead, the HMIS Lead is charged with the following duties:

- a) Provide project management and coordination for the HMIS implementation for the CoC;
- b) Ensure compliance with all HMIS data standards;
- c) Ensure data security and confidentiality;
- d) Monitor and report data completeness and accuracy among user agencies;
- e) Work cooperatively with the Metro Denver Homeless Initiative and Balance of State CoC's to ensure statewide consistency to the extent possible;
- f) Provide data management services for agencies participating in HMIS, including data for the consolidated application in the CoC competition, and the Point-in-Time Survey;

- g) Monitor and review the site annually; revise as needed;
- h) Participate in GB meetings.

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### **3) Administrative Lead**

Once the GB has approved the CoC selection of the Administrative Lead, the Administrative Lead (or Agent) is charged with the following duties and responsibilities. The Administrative Lead reports to the governing board and provides administrative support to the CoC as needed and requested.

- a) Consult with State and Local government ESG grant recipients to establish and operate a coordinated housing needs assessment system
- b) Create and enforce a set of policies and procedures in conjunction with the Governing Board to guide consistent operation of this system
- c) Evaluate the CoC grant programs' outcomes
- d) Partner with CoC program recipients to establish and enforce written policies and procedures for housing assistance eligibility; levels of assistance based on eligibility and qualification (i.e., transitional, Rapid Rehousing, or Permanent Supportive Housing) including the percentage or amount of rent support
- e) Monitor and evaluate member agency compliance with HUD's requirements for performance targets, provider performance and outcomes defined for ESG and CoC funded programs
- f) Identify underperforming agencies or programs to the governing board Conduct the annual PIT count in conjunction with the HMIS lead
- g) Conduct an annual gap analysis of homeless needs, services, and housing inventory
- h) Provide relevant information as requested to complete the CoC's Strategic Plan to End Homelessness (planning to be conducted Fall 2014 – Spring 2015)
- i) Participate in GB as staff in meetings with a non-voting role

## **SECTION FIVE: CONFLICT OF INTEREST AND CODE OF CONDUCT**

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### **1) Procurement**

- a) For the procurement of property (goods, supplies, or equipment) and services, the recipient and its subrecipients must comply with the codes of conduct and conflict of interest requirements under 24 CFR 85.36 (for governments) and 24 CFR 84.42 (for private nonprofit organizations)

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### **2) Continuum of Care Governing Board members**

- a) No Continuum of Care board member may 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. Thus, GB members from agencies seeking funding from the CoC Program will recuse themselves from discussions and votes on the CoC NOFA priority list and submission of a rank order to HUD

- b) Governing Board members must also adhere to the conflict-of-interest requirements defined by the State of Colorado<sup>3</sup>

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### **3) Organizational conflict**

- a) An organizational conflict of interest arises when, because of activities or relationships with other persons or organizations, the recipient or subrecipient is unable or potentially unable to render impartial assistance in the provision of any type or amount of assistance under this part, or when a covered person's, as in paragraph (4)(a) of this section, objectivity in performing work with respect to any activity assisted under this part is or might be otherwise impaired. Such an organizational conflict would arise when a board member of an applicant participates in decision of the applicant concerning the award of a grant, or provision of other financial benefits, to the organization that such member represents. It would also arise when an employee of a recipient or subrecipient participates in making rent reasonableness determinations under § 578.49(b)(2) and § 578.51(g) and housing quality inspections of property under § 578.75(b) that the recipient, subrecipient, or related entity owns.

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### **4) Other conflicts**

For all other transactions and activities, the following restrictions apply:

- a) No covered person, meaning a person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient or its subrecipients and who exercises or has exercised any functions or responsibilities with respect to activities assisted under this part, or who is in a position to participate in a decision making process or gain inside information with regard to activities assisted under this part, may obtain a financial interest or benefit from an assisted activity, have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity, or have a financial interest in the proceeds derived from an assisted activity, either for him or herself or for those with whom he or she has immediate family or business ties, during his or her tenure or during the one year period following his or her tenure.

- b) Exceptions

Upon the written request of the recipient, HUD may grant an exception to the provisions of this section on a case-by-case basis, taking into account the cumulative effects of the criteria in paragraph (4)(b)(ii) of this section, provided that the recipient has satisfactorily met the threshold requirements of paragraph (4)(b)(ii) of this section.

- i) Threshold requirements

HUD will consider an exception only after the recipient has provided the following documentation:

- (1) Disclosure of the nature of the conflict, accompanied by a written assurance, if the recipient is a government, that there has been public disclosure of the conflict and a description of how the public disclosure was made; and if the recipient is a private nonprofit organization, that the conflict has been disclosed in accordance with their written code of conduct or other conflict-of-interest policy; and
    - (2) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate Colorado law or the laws governing the City of Colorado

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<sup>3</sup> CRS § 7-128-401

Springs and/or El Paso County, or if the subrecipient is a private nonprofit organization, the exception would not violate the organization's internal policies.

- ii) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the threshold requirements under paragraph (b)(ii) of this section, HUD must conclude that the exception will serve to further the purposes of the Continuum of Care program and the effective and efficient administration of the recipient's or subrecipient's project, taking into account the cumulative effect of the following factors, as applicable:
  - (a) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
  - (b) Whether an opportunity was provided for open competitive bidding or negotiation;
  - (c) Whether the affected person has withdrawn from his or her functions, responsibilities, or the decision-making process with respect to the specific activity in question;
  - (d) Whether the interest or benefit was present before the affected person was in the position described in paragraph (c)(1) of this section;
  - (e) Whether undue hardship will result to the recipient, the subrecipient, or the person affected, when weighed against the public interest served by avoiding the prohibited conflict;
  - (f) Whether the person affected is a member of a group or class of persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class; and
  - (g) Any other relevant consideration.