

Commenting on HUD's Proposed Notice on Incentives

Please note that this guide is informational and is not legal advice.

What is a Public Comment Process?

A public comment period is a designated period when federal agencies provide the public with an opportunity to provide information and feedback on a proposed rule, policy, or agency action before it is finalized. Public comments remain part of the administrative record.

Federal agencies must consider relevant and substantive comments and provide explanation for how concerns are addressed when taking final action. These opportunities are critical to shaping federal policy.

HUD's Notice on Incentives

On September 10, the U.S. Department of Housing and Urban Development (HUD) published a [“Notice of Research Justifying Additional Incentives for Certain Activities To Reduce Homelessness.”](#) Interested parties have until October 13 to submit comments in response.

Contents of Notice & Anticipated Impact

According to HUD, it is publishing this notice in response to the August 7th ruling by a federal court, and as required by Section 428 of the McKinney-Vento Act, to establish additional activities for which it can provide bonuses and incentives besides the two already identified by Congress—Permanent Supportive Housing and Rapid Re-Housing.

Under [section 428\(d\)\(2\)\(C\) of the McKinney-Vento Homeless Assistance Act](#), HUD is only permitted to incentivize additional activities when such a determination is based on research and after a notice and comment period. The activities must be proven to be effective at reducing homelessness (in general or a specific subpopulation) or achieving homeless prevention and independent living goals as narrowly defined in section 427(b)(1)(F) (which is only applicable for CoCs that have been approved to serve households defined as homeless under other federal statutes, or Category 3 of the homeless definition).

HUD is proposing to determine that five categories of activities that meet the standard established by the statute are “proven effective.” After reviewing comments, “HUD will either publish revisions to the determination based on consideration of comments, or, if HUD determines that no revisions are needed, then HUD will adopt these determinations as part of future CoC funding opportunities.”

HUD Proposed Incentive Area	Description in Notice
Transitional Housing with Supportive Services	Transitional housing with supportive services concentrating on improving employment income and meeting behavioral healthcare needs for homeless individuals and families, particularly for homeless youth, families, and survivors of domestic violence, including dating violence, sexual assault, and stalking
Supportive Services	Supportive services for homeless individuals and families concentrating on improving employment income, meeting healthcare needs, treating substance use disorder and mental illness, and addressing barriers to self-sufficiency and housing through the provision of supportive services in housing, shelter, a standalone facility, or through street outreach
Supportive Service Participation Agreements	Supportive service participation agreements to engage program participants in unique, individualized services tailored to their needs and goals
Drug Free and Sober Housing	Housing that supports treatment and recovery for homeless individuals with a substance use disorder or in recovery from a substance use disorder by providing drug-free housing, sober housing, and on-site behavioral healthcare and recovery support services
Law Enforcement and First Responders as Crucial Partners	Coordination with law enforcement and first responders as crucial partners in addressing homelessness

Role & Importance of Public Comments

Comments submitted through this process will shape federal policy for years to come. During the comment period, interested parties can support or oppose the proposed action and provide any or all of the following:

- Evidence from valid and reliable research
- Local data on program outcomes, implementation experience, and de-identified testimonials of people with lived experience of homelessness
- Likely costs, benefits, or unintended consequences
- Recommended changes, guardrails, or alternatives

It is important to note that in the context of this notice, commenters are not merely offering support or opposition to the actions and strategies being proposed by HUD, but rather, weighing in on whether HUD has adequately demonstrated that these activities meet the threshold required by the statute.

Who Should Submit a Comment

Any individual, as well as any organization (so long as it is submitted by an authorized representative), may submit a comment. Comments are public and should not include any confidential information. Commenters can include, but are not limited to:

- HUD recipients and subrecipients, such as providers, local and state government entities, and tribal entities
- Other providers of services to people experiencing homelessness, including DV organizations, healthcare and behavioral-health organizations, recovery organizations, youth providers, disability advocates, legal-services organizations, and public safety partners
- Researchers, academics, and others who have conducted research and analyzed data on effective homelessness responses
- Current and former program participants, people living unsheltered, and frontline service providers and case workers

What to Include in Your Public Comment

General Tips

- **Identify your expertise:** Establish yourself as an expert by, for example, sharing information about your organization, populations served, and areas covered.
- **Submit unique, substantive, and specific comments:** Unlike advocacy, where it is helpful to have a singular ask made across offices, public comments are most effective when they are unique, specific, and include as much supportive evidence as possible. Because the statute requires that a proven strategy be shown to reduce homelessness, you should include data about how the proposed activities have affected permanent housing placement and reduced homelessness.
- **Clearly identify separate arguments:** Separate each of your arguments with its own section and clearly identify HUD's claim, your evidence and/or experience, your overall position (support, oppose, or support with conditions) and, if applicable, recommendations for what HUD should do instead.
- **Leverage evidence, including lived experience:** To the greatest extent, share local data points, experience, and stories to ensure more substantive comments for agencies to review.

Sample Outline of Public Comment Response

- **Introduction** and relevant expertise/experience
- **Executive summary** of key points listed in comment
- **Provide evidence:** The record does/does not support HUD's proposed determination regarding [activity]
- **Identify gaps:** HUD should address [contrary evidence, omitted factor, legal or implementation concern]
- **Illustrate impact:** The proposed approach would affect [people/programs/community] by [specific impact]
- **Provide solutions:** HUD should adopt [alternative, limitation, safeguard, performance measure, or additional process]
- **Conclusion**

Suggested Topics to Address

The following are suggested topic areas for commenters to address. A public comment does not need to address all of these topic areas; instead, focus on those where you are able to provide the most substantive information and detail.

- **Accuracy and Completeness of HUD’s Account of Community Information.** HUD refers to stakeholder consultations and community-specific examples to support its conclusions. Commenters should identify instances where the notice inaccurately characterizes those consultations, selectively presents community data, omits relevant context, or attributes outcomes to a particular policy without sufficient evidence.
 - *HUD Roundtable/Forum Participation:* HUD identifies in the notice that, “over the last year, HUD hosted 58 homelessness forums in 32 states, sharing its intended policy direction, listening to feedback, and answering questions.” If you attended one of these forums, or work in a community that hosted a forum, consider highlighting:
 - Was there an inclusive representation of partners working to end homelessness in your community? Whose perspectives were missing?
 - Were the activities highlighted in the notice the specific focus of the conversation and was input gathered and documented?
 - *Community Specific Examples:* HUD cites the experiences and data of specific communities, such as Portland, Oregon; and San Francisco, California. If HUD misinterpreted data from your community, or otherwise missed the larger picture, provide additional data points and local insight to set the narrative straight.
- **Statutory standard of “proven effective” at reducing homelessness or achieving homeless prevention and independent living goals identified in section 427(b)(1)(F).**
 - *Evaluate the quality and applicability of the evidence and research base.*
 - Are the studies HUD cites representative, sufficiently rigorous, current, and applicable to CoC-funded programs nationwide?
 - Is the cited research relevant—does it evaluate the same activity, population, setting, conditions, and outcome that HUD proposes to incentivize?
 - Does HUD rely on descriptive data, opinion pieces, polling, selected program examples, or correlations as if they establish causation?
 - Is there any evidence that HUD failed to consider contrary or more comprehensive evidence such as systematic reviews, randomized studies, HUD evaluations, or local outcome data?
 - Does the notice accurately describe Housing First and interpret research and data associated with the wide adoption of this approach?
 - *Assess extent in which evidence and research demonstrate that activities meet the statutory threshold of “proven effective.”*
 - Does the evidence that HUD provides to support its claims adequately demonstrate that the proposed activities have been “proven effective” at:
 - reducing homelessness generally,
 - reducing homelessness for a specific subpopulation, or
 - achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F) which would only apply to CoCs that have been approved to serve households that meet Category 3 of the homeless definition?
- **Address local impact and statutory purpose.**
 - Would national incentives distort locally documented needs, undermine inclusive CoC planning, or force communities to reallocate successful projects?
 - Does the notice take into account the administrative burden implementation of these activities would have and the impact on workforce needs, service availability, capital needs, match, operating costs, and impact on existing program participants?

Specific Considerations for Proposed Action

- **Transitional Housing with Supportive Services**
 - What does local data show regarding the cost and outcomes of transitional housing as defined in the notice, especially as it relates to reducing homelessness?
 - What would the consequences of shifting CoC resources away from permanent housing renewals be? Would the change lead to an increase or decrease in homelessness generally and for specific populations?
 - For what subpopulations, and under what conditions, is transitional housing effective at meeting the statutory threshold of “proven effective”?
- **Supportive Service Participation Agreements**
 - What do service participation agreements typically include? What does participation require? Who decides what is appropriate? What happens if a participant is unable to engage with a service included in the agreement?
 - What considerations are necessary to account for disability, trauma, relapse, caregiving, transportation, language access, cultural responsiveness, and unavailable or low-quality services?
 - Do service participation agreements conflict with the adoption of Housing First?
 - Does HUD adequately demonstrate that this strategy meets the statutory threshold of “proven effective”?
- **Drug Free and Sober Housing**
 - Are there models of recovery-focused housing that are most effective?
 - Which subpopulations are these interventions most and least effective for with respect to reducing homelessness?
 - How do these strategies work to house, and keep people stably housed?
 - Does HUD adequately demonstrate that this strategy meets the statutory threshold of “proven effective”?
- **Law Enforcement and First Responders as Crucial Partners**
 - Do reductions in visible encampments demonstrate reduced homelessness, or displacement to less visible locations? What does local data show for exits to permanent housing, shelter entry, returns, arrests, injury, and mortality.
 - Identify and separate evidence supporting voluntary co-response, EMS, crisis intervention, and safety planning from evidence claimed to support camping enforcement or criminal penalties.
 - What are alternative encampment response strategies that have been effective?

Key Considerations for Submitting Comments

Submitting public comments, both at an organizational and individual level, is protected under the First Amendment and [does not constitute lobbying](#), no matter the level of criticalness against the proposal published for feedback. Any individual or organization can submit a comment and the volume of unique and substantive comments received by HUD matters. Below are some things to consider as an individual, an organization, and a community when preparing your comments.

1. **Limitations on organization and concerns related to funding.** Comments from organizations that are recipients of HUD funding for impacted programs, as well as individuals served by those programs, hold significant importance given how federal rulemaking directly impacts your program. However, if you have concerns about submitting a comment directly either due to fear or organizational policy:
 - a. Identify a partner organization that is able to prepare and submit a comment and share data as well as testimonials from program participants and staff
 - b. Join sign on letters. For example, a state-level organization could sponsor a letter signed by “20 domestic violence service providers in the state.”
 - c. Submit a comment anonymously, either as an individual or organization.

2. **Coordinate across the CoC.** While there are many topic areas that can be addressed through this comment process, not every comment needs to address each one. Coordinate with other organizations within the CoC—including those who receive CoC funding and those who do not—to divide and conquer. For example, consider local academia who may be able weigh in on the questions around the evidence and research HUD includes.
3. **Focus on facts and evidence.** While it is important to specify what you support, oppose, or support with conditions, evidence and data will strengthen a comment significantly. State the data source, reporting period, population, definition, and limitation. Explain why the evidence is relevant to the activity HUD proposes to incentivize. Evidence that could be utilized includes:
 - a. Program-level outcomes with clear definitions, denominators, comparison periods, and population characteristics.
 - b. System Performance Measures, HMIS data, PIT/HIC data with limitations explained, coordinated-entry data, and returns-to-homelessness analyses.
 - c. Cost and capacity estimates showing what could be implemented and what existing housing or services might be displaced.
 - d. Peer reviewed research, systematic reviews, federal evaluations, Inspector General or GAO findings, and relevant court decisions.
 - e. De-identified lived-experience accounts that explain mechanisms and consequences—not merely conclusions.
 - f. Descriptions of unsuccessful as well as successful implementation, including selection effects and differences in population or program design.