

<b>Policy Title</b>	Detroit CoC Funding Appeals Process Policy & Procedures
<b>Date Developed/Revised</b>	March 2012; September 2013; August 4, 2014; June 1, 2015; June 6, 2016; April 2018; April 2019; March 2020, July 2022, <b>date</b>
<b>Date Adopted by CoC Board of Directors</b>	10/7/2013; 8/4/2014; 6/1/2015; 6/6/2016; 6/4/2018; 5/6/2019; 6/3/2020, 7/11/2022; <b>DATE</b>
<b>Signed (CoC Board Chair)</b>	

Recommended changes to this policy are noted in red font. Rationale for proposed changes are given in an accompanying note.

**I. Policy Applies To**

The following policy applies to all recipient ~~and/or sub-recipient~~ organizations that receive HUD Continuum of Care (CoC) funding in the Detroit CoC.

**Commented [AS1]:** Rationale for striking this language: Appeals will only be received by recipient organizations (not subrecipient organizations). Striking this language so as to not have conflicting language in the policy.

**II. Background**

The Collaborative Applicant for the Continuum of Care in Detroit, Hamtramck, and Highland Park, is responsible for leading the process of applying for Continuum of Care funding from the Department of Housing and Urban Development (HUD) on an annual basis. In accordance with the Detroit CoC Governance Charter, the Homeless Action Network of Detroit (HAND) has been designated as the Collaborative Applicant. In carrying out these responsibilities, HAND, in conjunction with the Values & Funding Priorities Committee will develop the process by which projects seeking renewal funding are evaluated and ranked in a priority listing for funding. The policies are approved by the Continuum of Care Board.

This policy describes instances in which an ~~applicant agency~~ may appeal a funding decision made by the CoC board.

**Commented [AS2]:** Changing word “agency” to “applicant” in several places throughout for greater consistency in language.

**III. Evaluation and Ranking**

All CoC funded projects seeking renewal funding in the Continuum of Care competition will be reviewed and scored by the Collaborative Applicant on a number of components which may include – but not be limited to – program performance, HMIS data, and CoC participation. The details of the scoring components, and the values of those components, will be specified yearly in the “Renewal Application Policies and Procedures” document.

A renewal project will be placed on the project priority **ranking** list in accordance with ranking policies if it meets one of the following criteria:

**Commented [AS3]:** Adding word “ranking” to be consistent with other language used to describe this list. Update throughout.

1. Project has a final score of at least 70%; OR
2. Project has a final score of less than 70% of the total points possible but has been granted a threshold waiver by the Appeals Committee.

Projects that score less than 70% and are not granted a threshold waiver from the Appeals Committee will not be placed on the project priority **ranking** list and will not be submitted to HUD for renewal funding. The funding available from these projects will be reallocated to a new project(s).

#### **IV. Submission of Appeal**

Appeals will only be accepted from recipient organizations. Appeals submitted by sub-recipient organizations will not be considered.

#### **V. Types of Appeals**

There are several types of appeals that a project applicant may submit. An applicant may submit any or all the following types of appeals for one project. The types of appeals are:

##### **A. Calculations Appeal**

An applicant may appeal the score or performance rate earned by demonstrating an error was made in calculating the score or performance rate on any of the evaluation components in the renewal project application. When appealing a calculation error, the project applicant must demonstrate that a calculation error was made, and additionally demonstrate what the correct calculation should be. Proposed corrections must be based on the data originally submitted to the Collaborative Applicant with the renewal applications. Applicants may not submit changed or corrected data after the initial submission to the Collaborative Applicant. Projects should refer to the self-scoring tools provided with the yearly application materials for details on how the performance rates were calculated.

For the purposes of this policy, a “calculation error” is defined as error made in addition, subtraction, division, multiplication or other mathematical operation.

##### **B. Timely Material Submission Appeal**

At times, renewal project applications may be scored on the extent to which required materials are submitted on time and in the required format. If the score of a project application is impacted due to late or incomplete submission of required materials, the applicant may submit an appeal if it disagrees that required materials were not submitted on time or in the format required. In the appeal, the applicant must demonstrate it submitted the required materials in the timeframe and format required.

##### **C. Appeal for Threshold Waiver**

A project that earns less than 70% of the total points possible – either before or after any calculation corrections are made – may appeal for a waiver of the threshold requirement that a project earn at least 70% in order to be placed on the project priority **ranking** list. This appeal for a waiver is the applicant’s opportunity to provide additional rationale, in a narrative format, as to why the project should continue to be considered for funding. This waiver request only applies to projects that have an overall score of less than 70%, because without this waiver the project would not be placed on the project priority **ranking** listing and would not be submitted to HUD.

##### **D. Appeal CoC Board Decision to Reallocate Renewal Project **For Reasons Other Than Project Below Threshold****

**In each funding competition,** The Detroit CoC board may decide to reallocate a renewal project in part or in whole. Such decisions will be made in accordance with HUD’s policies and procedures and in accordance with the CoC’s funding priorities.

**Commented [AS4]:** This section has been changed to clarify when an applicant may appeal a reallocation decision.

“Reallocation” means that a renewal project will have its budget reduced either in part or be reallocated in whole. Projects that are reallocated in part may be submitted for renewal for the remaining portion of its budget, provided it meets the criteria for renewal. Projects that are reallocated in whole will not be submitted for renewal funding. Funds made available from the reallocated projects will be used to fund new project(s). Reallocation does not apply to new projects, nor does it apply to CoC planning grants. The CoC board determines reallocation strategies annually.

~~An applicant may appeal any decision made by the CoC board to reallocate a project in part or in whole. The CoC board may decide to reallocate a project for reasons other than the project falling below the scoring threshold. Such a decision may be made outside of the annual renewal project application scoring process. make reallocation decisions either prior to or after the renewal project review and scoring process.~~

When the CoC Board decides to reallocate a project for reasons other than the project falling below the scoring threshold, this decision may be appealed as described in Section X.C. below.

~~Regardless of when a reallocation decision is made, the applicant may appeal this decision.~~ The appeal for a change in the board’s decision to reallocate a project is the applicant’s opportunity to provide rationale, in a narrative format, as to why the project should continue to receive funding and how the project aligns with HUD’s and the CoC’s priorities.

#### **VI. Content of Appeals**

The source of data for evaluating projects for continued HUD CoC funding is the data submitted in the project’s APR, other HMIS data, or other records. The sources of data used to evaluate projects is given in the “Self-Scoring Tools”. It is expected that organizations have reviewed this data prior to submission. Therefore, applicants that submit an appeal may not appeal based on having initially submitted incomplete or inaccurate data to the Collaborative Applicant. Any appeal that is submitted in which the only rationale or evidence given is based on corrected data will be rejected and the project’s original performance rate will stand.

#### **VII. Appealing Placement on Project Priority Ranking List**

Projects will be placed on the project priority **ranking** list in accordance with the ranking policies based on the final calculated performance rate. The final performance rate will be either the performance rate initially calculated, or re-calculated if needed based on any appeal made. Placement on the project priority **ranking** list, however, does not guarantee funding, as the ultimate funding decisions are made by HUD.

Organizations may not appeal the placement of the project on the project priority ranking list, whether the project is placed into Tier 1 or Tier 2. All project rankings are final and cannot be appealed.

#### **VIII. New Project Application Appeals**

Due to the competitive nature of applying for new project funding, there is no appeals process for projects that are not selected for new project funding. The decision of the CoC board on which new project(s) to be submitted to HUD for new project funding is final. See policy titled “Detroit CoC Funding Application Review and Ranking Policies and Procedures” for details on the new project application, review, and decision-making process.

## **IX. Composition of Appeals Committee**

The Collaborative Applicant will invite individuals to participate on the Appeals Committee. Individuals that have served on the committee in the past may serve the following or subsequent years. The Appeals Committee will be composed of individuals who have knowledge and experience in any (but not necessarily all) of the following:

- Continuum of Care funding and process
- Homelessness programming
- Homelessness funding (which may include private and/or public funding sources)
- Program evaluation
- Performance monitoring
- Grant writing
- Fund development
- Fund distribution

The Appeals Committee will be composed of **5 to 7 members. All attempts will be made to ensure an odd number of people present reviewing appeals. at least 5, but no more than 7, members.** A sub-set of the Appeals Committee, composed of at least 3 members, may be tasked with reviewing calculations or timely material submission appeals. The staff of the Collaborative Applicant will have the autonomy to decide if a sub-set of the Appeals Committee is appropriate to review calculations or timely material submission appeals. Members of the appeals committee must not be employed by, or on the board of directors, of a Detroit CoC-funded agency. The Appeals Committee is a sub-committee of the Values & Funding Priorities Committee; therefore, at least one person from the Values & Funding Priorities Committee will also sit on the Appeals Committee to enhance communication between the two committees.

**Commented [AS5]:** Clarifying language. Goal to have odd number of members to avoid ties in decision making process.

Communication amongst the Appeals Committee members and Collaborative Applicant agency staff regarding the above may be conducted either in person, via email, via conference call, or **via other on-line communication means.**

## **X. Role of Appeals Committee**

The role the Appeals Committee will vary depending upon the type of appeal under consideration.

### **A. Calculation Appeals and/or Timely Material Submission Appeals**

Collaborative Applicant agency staff will present to the Appeals Committee, or a sub-set of the Committee, the appeal submitted and the need for calculation review or review of submission of required materials. The Appeals Committee, or the sub-set of the Committee will review the information submitted with the appeal. Following this review, a recommendation will be made to the full Appeals Committee as to whether a project's performance rate (score) needs to be corrected based on any corrected calculations or based on evidence that required materials were submitted on time and in the format required. The Appeals Committee will then decide based on the recommendation to either change or not change a project's performance rate. The Appeals Committee will not be making a recommendation or decision as to where on the project priority **ranking** list the project should be ranked. The placement of the project on the project priority **ranking** list will be determined by the ranking policies.

For calculation and/or timely material submission appeals, the Appeals Committee will carry out the following activities:

- Review appeals material submitted by applicant.

- Determine if a calculation error was made in calculating the project performance rate, and if so, present the corrected performance rate.
- Determine if the applicant agency did submit required materials on time and in the format required.

If the Appeals Committee agrees that a performance rate was initially calculated incorrectly, and that the appealing applicant demonstrated a corrected performance rate, the Appeals Committee may make the decision to grant the project the corrected performance rate. The project will then be ranked according to the corrected performance rate.

If the Appeals Committee determines that the initial project performance rate had been correctly calculated, and that the appealing applicant was not able to substantiate the need for a corrected calculation, the Committee may make the decision to rank the project according to the initial performance rate as had been calculated by Collaborative Applicant staff.

**B. Threshold Waiver Appeals ~~and Reallocation Appeals~~**

Collaborative Applicant agency staff will present to the full Appeals Committee the materials submitted by the project applicant seeking a threshold waiver ~~or appealing a reallocation decision~~. The Appeals Committee will carry out the following activities:

- Review appeals material submitted by applicant.
- Participate in a group discussion about the appeal.
- Develop a recommendation for the project being appealed.

The Appeals Committee will make recommendations on threshold waiver requests ~~or reallocation decisions~~. Upon review of the appeal, the Appeals Committee will make one of the following recommendations to the CoC Board of Directors:

1. **Appeal is denied:** Project should not be considered for renewal funding and should not be placed on the project priority ranking list. The funding available from projects not placed on the project ranking list, and consequently not submitted for renewal, will be reallocated to a new project(s). ~~If the appeal under consideration was a reallocation appeal, this recommendation of the Appeals Committee, if affirmed by the CoC Board, will be the final decision and no further appeal will be allowed.~~
2. **Appeal is granted with no further condition:** Project should be placed on the project priority ranking list in accordance with ranking priorities for the full amount of its current award.
3. **Appeal is granted with condition:** Project should be placed on the project priority ranking list in accordance with ranking priorities for the amount of its current award, with the condition that, if funded, the project must submit to a plan of correction/technical assistance over the course of the following year, with stipulation that the project may remain at risk of not being considered for future funding if there is a lack of progress on any corrective action plan developed.
4. **Project is recommended to be submitted for renewal with a reduced budget (ie, partial reallocation) with conditions:** The Appeals Committee may recommend to the CoC Board that the project be submitted for renewal funding in accordance with the ranking policies at a reduced budget amount. The project would be submitted at that reduced amount with the condition that, if funded, the project must submit to a plan of correction/technical assistance over the course of the following year, with the stipulation that the project may remain at risk of not being considered for future funding if there is a lack of progress on an corrective action plan developed. The funds reduced would then be reallocated to a new project(s). ~~If the appeal under consideration was a reallocation appeal, this recommendation of the Appeals Committee, if affirmed by the CoC Board, will be the final decision and no further appeal will be allowed.~~

**Commented [AS6]:** Striking throughout this section any reference to reallocation appeals, as reallocation appeals is given its own section below.

In considering Threshold Waiver Appeals, the Appeals Committee may offer the appealing applicant an opportunity to present before the Committee additional details on their appeal. If this opportunity is offered to one appealing applicant, it must be offered to all appealing applicants.

**Commented [AS7]:** Adding language on the Appeals Committee ability to speak directly with the applicant undergoing the appeal, and ensuring that this process is applied fairly to all applicants that were under threshold.

If the Appeals Committee recommends reallocating a project's budget, the Committee must have at least 75% of the committee members voting in favor of that recommendation.

**Commented [AS8]:** Because there are significant ramifications to cutting a project's funding, and because there is not an additional appeals process after this one, recommend a high percentage of committee members needing to be in agreement.

The CoC Board will vote on the recommendation made by the Appeals Committee for projects that fell below threshold. This vote of the CoC Board, including any votes to reallocate a project in part or in whole due to the project falling below threshold, will be the final decision and no further appeal from the applicant will be considered.

**Commented [AS9]:** This language is new, and a departure from how the policy was previously written. With this new language, once the board votes to approve the Appeals Committee reallocation recommendation when a project falls below threshold, that board decision will be final. There will be no "secondary" appeal of that decision.

Appealing applicants, their representatives or advocates, will not be allowed to present verbal or written statements regarding their appeal at the Board meeting where the Appeals Committee recommendation will be voted on.

**Commented [AS10]:** Adding this language to ensure a fair process for all appealing applicants.

The Appeals Committee will not be making a recommendation as to where on the project priority ranking list the project should be ranked. The placement of the project on the project priority ranking list will be determined by the ranking priorities.

### C. Reallocation Appeals

**Commented [AS11]:** This entire section is new. This section provides more clarity and detail to how a reallocation decision may be appealed when the board decides to reallocate a project for reasons other than the project falling below threshold.

The CoC Board may decide to reallocate a renewal project for reasons other than the project falling below the scoring threshold (Section V.D.). In these instances, once the applicant receives notice of that reallocation decision, the appeals process will be as follows.

Collaborative Applicant agency staff will present to the full Appeals Committee the materials submitted by the project applicant seeking appealing a reallocation decision. The Appeals Committee will carry out the following activities:

- Review appeals material submitted by applicant.
- Participate in a group discussion about the appeal.
- Decide whether to uphold, modify, or reverse the Board's relocation decision.
- Report to the CoC Board the decision made

In considering Reallocation Appeals, the Appeals Committee may offer the appealing applicant an opportunity to present before the Committee additional details on their appeal. If this opportunity is offered to one appealing applicant, it must be offered to all appealing applicants.

The Appeals Committee will decide on reallocation appeals. Upon review of the appeal, the Appeals Committee will make one of the following decisions:

1. **Uphold the Board's Reallocation Decision:** The Appeals Committee may decide to uphold the Board's reallocation decision as it stands.
2. **Modify the Board's Reallocation Decision to a Lesser Degree:** The Appeals Committee may decide to modify the Board's reallocation decision so that a lesser amount of the project be reallocated. For example, if the Board decide to reallocate 100% of a project's budget, the Appeals Committee may decide to reallocate only

50% of the budget. The Appeals Committee may not decide to reallocate a greater proportion of a project budget than what the Board decided.

- 3. Reserve the Board's Decision in its Entirety:** The Appeals Committee may decide to reverse the Board's reallocation decision in its entirety, and allow the project to retain 100% of its budget.

All votes of the Appeals Committee on reallocation appeals must pass with at least 75% of the Appeals Committee members voting in favor of the decision. The decision made by the Appeals Committee under this section will be final and no further appeal from the applicant will be considered.

**Commented [AS12]:** Because there are significant ramifications to cutting a project's funding, and because there is not an additional appeals process after this one, recommend a high percentage of committee members needing to be in agreement.

#### **XI. Role of Collaborative Applicant Agency Staff with Appeals Committee**

Collaborative Applicant agency staff will carry out the following activities with the Appeals Committee:

- Recruit volunteers to take part in the Appeals Committee who have the knowledge/experience as described above.
- Provide background information to Appeals Committee on score received by project under appeal.
- If necessary, provide general background information on the applicant and project filing the appeal. The content of this information will consist of the description of the applicant and project provided by the applicant in its application to the CoC and information that is otherwise publicly available about the applicant or project (ie, via the applicant's website, brochures, etc).
- Guide and facilitate the discussion process with the Appeals Committee. Staff will offer input only to help clarify or guide the conversations; no opinions on the applicant or project will be offered in the conversation with the Appeals Committee.
- Staff will take notes during the conversations with the Appeals Committee. If communications amongst the Appeals Committee members is conducted via email, the emails will be retained as records of the Appeals process.

#### **XII. Role of CoC Board**

Continuum of Care (CoC) Board members will be recused from the discussion and decision making on the appeals in accordance with the Conflict of Interest policy in the Detroit CoC Governance Charter. All CoC Board members' Conflict of Interest statements will be reviewed prior to discussion on appeals to ensure members with disclosed conflicts are recused from discussions.

Any CoC Board member who is not otherwise recused will be expected to participate in the review and decision making on appeals. A quorum will be a majority or 51% of the Board members eligible to review the appeals. A quorum must be present in order for voting on the appeals to occur.

The Board will conduct the following activities:

- Review the decision made by the Appeals Committee regarding calculation errors and vote to approve or not approve the decision(s).
- Review and discuss the recommendations made by the Appeals Committee on threshold waiver appeals and vote to accept or reject the recommendations.
- Review and discuss the recommendations made by the Appeals Committee on reallocation appeals and vote to accept or reject the recommendations.
- Voting may occur in the following ways: via a voice vote in person, voice vote over the phone, ~~or~~ in writing via email, **or via another electronic means (ex – meeting polls, on-line form, etc).**
- Decisions will be made by a simple majority vote.

**Commented [AS13]:** Language added to align with current practice.

- If the Board votes to reject a recommendation made by the Appeals Committee, the Board will be responsible for developing its own decision on action to be taken with the project in question.

The decisions made by the Board will be final.

### **XIII. Role of Collaborative Applicant Agency Staff with the CoC Board**

Collaborative Applicant agency staff will carry out the following activities with the CoC Board:

- Staff will present the recommendations of the Appeals Committee to the CoC Board.
- Staff will guide and facilitate the discussion with the CoC Board, including offering additional background information and/or clarification as needed.
- Staff may provide input on recommendations during discussions with the CoC Board, however, staff will not offer an opinion on the recommendation being made.
- Staff will take notes.
- CoC board members who are also staff or board members of the Collaborative Applicant agency may participate in, and vote, in the appeals discussion, **provided there is no other conflict per the CoC's conflict of interest policy.**

**Commented [AS14]:** Language added for clarification.

### **XIV. Notification of Appeals Decision**

Applicants will be informed of the decision of the Appeals Committee, and any additional instructions, in writing through letter or email within 5 business days of the decision.

### **XV. Conflict of Interest**

All members of the Appeals Committee will be required to sign the same Conflict of Interest Disclosure statement as the CoC Lead Agency staff and CoC Board of Directors. This Conflict of Interest Disclosure statement is attached.

In the case that Collaborative Applicant agency staff receive information of a real or potential conflict of interest, such information will be investigated and appropriate action will be taken.

### **XVI. Notification of Appeal Process & Submission of Appeals**

Collaborative Applicant staff will notify applicants via email of their project's initial project performance. This notification will also include details on how an applicant may submit an appeal, and the timeline in which the appeal is to be submitted. The specifics on submitting the appeals (deadlines, method, contact person, timeline for making decisions) will be specified on a yearly basis. Applicants will be given at least 5 business days from when they receive notice of their ability to appeal to submit their appeal from the time they are notified of their eligibility to appeal. Depending on the timeline for the CoC competition, additional time may be given. An applicant that does not submit an appeal by the stated deadline will be considered to not be appealing and therefore that project will automatically be ranked according to the initial score received.



**XVII. Appeals for Projects Currently Under Technical Assistance**

An applicant that has a project that is subject to CoC-recognized technical assistance, or that is under a Corrective Action Plan at the time of application for renewal funding will still be able to submit an appeal as outlined in this document.

**XVIII. HUD Appeal Process**

The Detroit CoC Board is responsible for making decisions on which new and renewal projects are submitted to HUD each year as part of the annual CoC competition. The ultimate decision in whether a project is funded is made by HUD.

The HEARTH Act, in 24 CFR §578.35, and the annual Notices of Funding ~~Availability Opportunity (NOFA NOFO)~~, provide information regarding the situations in which an ~~applicant agency~~ may submit an appeal directly to HUD. Agencies may appeal directly to HUD if they meet the criteria set forth in 24 CFR §578.35. The submission of an appeal to HUD, in accordance with HUD’s policies and procedures, is the final recourse that may be taken for the project.

Commented [AS15]: Updating language

**XIX. Exceptions and Changes to Policy**

The CoC reserves the right to make an exception to this policy and procedures based on communication from HUD that impact the Continuum of Care’s ability to carry out the policy and procedures as described above. The CoC also reserves the right to amend this policy on an annual basis based on any of the following: changes in HUD policy, changes in the Continuum of Care policy related to project evaluation processes, and/or changes to project funding priorities.