

Legal Requirements

The McKinney-Vento Homeless Assistance Act authorized HUD to require CoCs to conduct PIT counts. Section 427(b)(3) states:

“Homelessness Counts. – The Secretary shall not require that communities conduct an actual count of homeless people other than those described in paragraphs (1) through (4) of section 103(a) of this Act.”

This statutory language establishes HUD’s authority to require PIT counts but limits the count to persons who are defined as living on the streets or in shelters (which is what section 103(a) paragraphs 1 through 4 define). This is further clarified in Standard Nos. 7 and 11 below.

In the CoC Program interim rule HUD further clarified the requirements for conducting PIT counts. In the definition section HUD defines the PIT count as “count of sheltered and unsheltered homeless persons carried out on one night in the last 10 calendar days of January or at such other time as required by HUD” (24 CFR 578.3). HUD outlined CoC planning requirements in 24 CFR 578.7(c)(2):

- “(2) Planning for and conducting, at least biennially, a point-in-time count of homeless persons within the geographic area that meets the following requirements:
- i. Homeless persons who are living in a place not designed or ordinarily used as a regular sleeping accommodation for humans must be counted as unsheltered homeless persons.
 - ii. Persons living in emergency shelters and transitional housing projects must be counted as sheltered homeless persons.
 - iii. Other requirements established by HUD by Notice.”

The Con Plan jurisdictions, which are States, local governments, or territories that receive Emergency Solutions Grants (ESG) program, Community Development Block Grants (CDBG), HOME Investment Partnerships (HOME), and/or Housing Opportunities for Persons With AIDS (HOPWA) formula funding, are required to conduct a homeless needs assessment, per Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act:

“A housing strategy submitted under this section shall be in a form that the Secretary determines to be appropriate for the assistance the jurisdiction may be provided and shall...

- (2) describe the nature and extent of homelessness, including rural homelessness, within the jurisdiction, providing an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness, including tabular representation of such information, and a description of the jurisdiction’s strategy for
- (A) helping low-income families avoid becoming homeless;
 - (B) addressing the emergency shelter and transitional housing needs of homeless persons (including a brief inventory of facilities and services that meet such needs within that jurisdiction); and
 - (C) helping homeless persons make the transition to permanent housing and independent living;”

Further, Con Plan jurisdictions are required to report on their compliance with the state and housing strategy, including actions taken as a result of the homeless need assessment, per section 108(a) of the Cranston-Gonzalez National Affordable Housing Act:

“Each participating jurisdiction shall annually review and report, in a form acceptable to the Secretary, on the progress it has made in carrying out its housing strategy, which report shall include an evaluation of the jurisdiction’s progress in meeting its goal established in section 12705(b)(15) of this title, and information on the number and types of households served, including the number of very low-income, low-income, and moderate-income persons served and the racial and ethnic status of persons served that will be assisted with funds made available.”

The homeless needs assessment requirements for local governments, including the requirement to use PIT count data, are stated in 24 CFR 91.205(c)(1):

“The plan must describe, in a form prescribed by HUD, the nature and extent of unsheltered and sheltered homelessness, including rural homelessness, within the jurisdiction. At a minimum, the recipient must use data from the Homeless Management Information System (HMIS) and data from the Point-In-Time (PIT) count conducted in accordance with HUD standards.

- (i) The description must include, for each category of homeless persons specified by HUD (including chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth), the number of persons experiencing homelessness on a given night, the number of persons who experience homelessness each year, the number of persons who lose their housing and become homeless each year, the number of persons who exit homelessness each year, the number of days that persons experience homelessness, and other measures specified by HUD.
- (ii) The plan also must contain a brief narrative description of the nature and extent of homelessness by racial and ethnic group, to the extent information is available.”

Similarly, in 24 CFR 91.305(c)(1), States are required to submit a homeless needs assessment as part of their Con Plan process:

“The plan must describe, in a form prescribed by HUD, the nature and extent of homelessness, including rural homelessness, within the state.

- (i) The description must include, for each category of homeless persons specified by HUD (including chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth), the number of persons experiencing homelessness on a given night, the number of persons who experience homelessness each year, the number of persons who lose their housing and become homeless each year, the number of persons who exit homelessness each year, and the number of days that persons experience homelessness, and any other measures specified by HUD.
- (ii) The plan also must contain a brief narrative description of the nature and extent of homelessness by racial and ethnic group, to the extent that information is available.”

