



# NHTF • The National Housing Trust Fund

## Public Participation Requirements of The Consolidated Plan Process

### The National Housing Trust Fund is Tied to the Consolidated Plan

The National Housing Trust Fund (NHTF) law requires compliance with the Consolidated Plan (ConPlan) public participation requirements. NHTF money must be distributed throughout the state based on the priority housing needs in the state's ConPlan.

§1338(c)(5)(A) and (8)(B)

The NHTF law also requires states to prepare a NHTF "Allocation Plan" every year. That Allocation Plan must show how the state will distribute the NHTF dollars it will receive in the upcoming year. HUD's interim regulations require the NHTF Allocation Plan to be integrated into the ConPlan. (See separate article, "How Can I Influence Where The Money Goes?" for details.)

§1338(c)(5)(A)

§93.2, §93.100(b), §93.101(b), and ConPlan regs at §91.220(l)(5) and §91.320(k)(5)

The ConPlan public participation process provides advocates an opportunity to influence how NHTF resources are allocated throughout the state, and after distribution by the state, also at the local level if the state decides to allot some or all of the NHTF money to local government "subrecipients."

This article outlines the key features of the Consolidated Plan's public participation requirements.

A Consolidated Plan (ConPlan) is a five-year plan that states and most local governments must have in order to receive other federal funds distributed by formulas, such as Community Development Block Grants and HOME grants. Each year, an Annual Action Plan must be completed indicating how federal block grant monies, and any other funds expected to be available for housing activities, will be used in the upcoming year. A ConPlan presents the housing needs of renters and homeowners by income categories and population characteristics. Given the needs, the ConPlan indicates the priorities for addressing those needs. For more about the ConPlan, see NLIHC's *Advocates' Guide*.

## The Public Participation Plan

There must be a written public participation plan that describes a state's or local subgrantee's policies and procedures for involving lower income people in the ConPlan process.

The public participation plan must "provide for" and "encourage" public involvement in drafting the ConPlan or Annual Action Plan, any "Substantial Amendment" to it, and the Annual Performance Report.

- The public participation plan must encourage involvement by low income people, especially those living in low income neighborhoods and areas where funds might be spent.
- States and local subgrantees are "expected to take whatever actions are appropriate" to encourage involvement by people of color, people with limited English proficiency, disabled people, and residents of public and assisted housing.

§91.115(a)(2) states, §91.105(a)(2) localities

## Public Hearings

The law requires public hearings at all stages of the process. At a minimum, hearings must give the public a chance to identify housing needs, review proposed uses of funds, and comment on the past use of funds.

The ConPlan regulations require a public hearing specifically to get public views on housing and community development needs. This housing needs hearing must take place before a Proposed ConPlan or Proposed Annual Action Plan is published for public comment.

The ConPlan regulations only require states to have one public hearing and localities to have two public hearings. For local subgrantees, but not states, that second public hearing must be during the development of the ConPlan.

§91.115(b)(3) states, §91.105(e)(1) and §91.105(b)(3) localities

- There must be "adequate" public notice of upcoming hearings.

§91.115(b)(3)(i) states, §91.105(e)(2) localities

  - The ConPlan regulations declare, "Publishing small print notices in the newspaper a few days before the hearing is not adequate notice".
  - The ConPlan regulations add, "two weeks' notice is adequate".
- Hearings must be held at times convenient to people who are likely to be affected.

§91.115(b)(3)(ii) states, §91.105(e)(3) localities
- Hearings must be held in places easy for lower income people to get to.

§91.115(b)(3)(ii) states, §91.105(e)(3) localities
- Where there are a significant number of people with limited English proficiency, the public participation plan must say how they can be involved.

§91.115(b)(3)(iii) states, §91.105(e)(4) localities

## **The Proposed ConPlan or Proposed Annual Action Plan**

Complete copies of the Proposed ConPlan or Proposed Annual Action Plan must be in public places, such as libraries.

§91.115(b)(2) states, §91.105(b)(2) localities

A "reasonable number" of copies of a Proposed ConPlan or Proposed Annual Action Plan must be provided for free.

§91.115(b)(2) states, §91.105(b)(2) localities

The public must have at least 30 days to review and comment on the Proposed ConPlan or Proposed Annual Action Plan.

§91.115(b)(4) states, §91.105(b)(4) localities

- The state or local subgrantee must "consider" these comments.

§91.115(b)(5) states, §91.105(b)(5) localities

- A summary of public comments must be attached to the Final ConPlan or Final Annual Action Plan, along with an explanation why public suggestions were not used.

§91.115(b)(5) states, §91.105(b)(5) localities

## **General Public Participation Provisions**

A copy of the Final ConPlan or Annual Action Plan must be available to the public.

§91.115(f) states, §91.105(g) localities

States and local subgrantees must respond in writing within 15 days to written complaints.

§91.115(h) states, §91.105(j) localities

Access to information must be reasonable and timely.

§91.115(g) states, §91.105(h) localities

- There must be reasonable notice that standard ConPlan or Annual Action Plan documents are available for people to review and make comments about.
- The public must be able to review records from the last five years.
- For local subgrantees (not states) the public must have "reasonable and timely" access to local meetings (such as Community Advisory Committee meetings, City Council subcommittee meetings, etc.).

§91.105(f) localities