

National Low Income Housing Coalition National Housing Trust Fund Model Allocation Plan for Michigan June 2016

The National Housing Trust Fund (NHTF) will be implemented in 2016, making new funds available for the production, preservation, rehabilitation, and operation of rental housing that is affordable to extremely low income (ELI) households, those with incomes at or below 30% of the area median. The National Low Income Housing Coalition (NLIHC) is engaged in a multi-pronged strategy to assure that implementation is successful and the funds are used for maximum effectiveness.

The purpose of this paper is to inform Michigan housing and homeless advocates about what the NHTF statute and regulations require regarding the NHTF Allocation Plan. It is important that you participate in the public participation process to influence the content of the Michigan NHTF Allocation Plan.

The NHTF is a block grant to the 50 states, the District of Columbia, Puerto Rico, and U.S. territories that is administered by HUD's Office of Community Planning and Development (CPD).

There are two conditions that each state must meet in order to receive its NHTF allocation:

- The state must designate an entity to administer the NHTF and notify the HUD Secretary of the administering entity; and
- The state must prepare and submit a NHTF Allocation Plan to HUD.

The person officially in charge of Michigan's NHTF Allocation Plan is:

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This paper is based on NLIHC's interpretation of the statute that created the NHTF and the NHTF Interim Rule issued by HUD. Material that is specific to Michigan is gleaned from the State of Michigan's 2015-2019 Consolidated Plan,
http://www.michigan.gov/documents/mshda/mshda_2015_conplan_final_1_489505_7.pdf.

The paper also contains NLIHC's suggestions for what ideal NHTF Allocation Plans should include. For the sake of clarity, some sections are marked **ST** for statute, **REG** for regulation, and **SUG** for suggestions.

Timeline for 2016

- April 4: HUD announces that nearly \$174 million will be allocated for the NHTF in 2016.
- April 26: HUD publishes NHTF Allocation Plan guidance.
- May 5: HUD publishes NHTF allocations to states in the *Federal Register*. Michigan will receive **\$3,522,622**.
- June 9: Michigan State Housing Development Authority (MSHDA) posted a draft NHTF Allocation Plan to its 2016 Consolidated Plan (ConPlan) Annual Action Plan. MSHDA's must follow its ConPlan public participation procedures. (see ConPlan Citizen Participation on page 14.)
- June 28: Public hearing about draft NHTF Allocation Plan from 10:00 am – 12:00 pm at the MSHDA Lansing office, with simultaneous videoconferencing at the MSHDA Detroit office.
- July 11: All public comments due.

The following are simply guesstimates

- End of July: MSHDA submits NHTF Allocation Plan to HUD, which has 45 days to review it. The Allocation Plan is automatically approved after 45 days if HUD does not comment.
- Early September: Michigan and HUD sign Grant Agreement.

Key facts about the NHTF Allocation Plan

- The NHTF Allocation Plan is part of the Annual Action Plan (REG) that Michigan must submit as an update to your 2015-2019 ConPlan. The ConPlan and the Annual Action Plan must be submitted to HUD for Michigan to receive annual allocations of CDBG, HOME, HOPWA, ESG, and now NHTF funds.
- The Michigan State Housing Development Authority (MSHDA) is the lead entity responsible for submitting Michigan's ConPlan and Annual Action Plans.
- Most people are more familiar with their local jurisdictions' ConPlans. NHTF advocates have to become knowledgeable about the Michigan ConPlan and the state's process for seeking public input on its ConPlan.
- After the NHTF Allocation Plan is submitted, HUD has 45 days to review and reject it. As with a ConPlan or Annual Action Plan, HUD can reject a NHTF Allocation Plan for several reasons, including being incomplete or failing to meet public participation requirements. If HUD does not act, the plan is accepted.
- Typically, ConPlans and Annual Action Plans are submitted via HUD's IDIS electronic system. However, according to Notice CPD-16-07, only some portions of the NHTF Allocation Plan can be entered through IDIS; other portions are to be submitted as a PDF document.

Important Definitions for the NHTF Allocation Plan

- **Grantee (ST).** The state entity that prepares the Allocation Plan, receives the NHTF dollars from HUD, and administers the NHTF in the state. The grantee for Michigan is MSHDA.
- **Subgrantee (REG).** If Michigan chooses, it may designate local jurisdictions to administer the NHTF in a city or urban county.
- **Eligible Recipient (ST).** The organization or agency that submits an application to MSHDA (or subgrantee) for funds to carry out a NHTF project in the state (or locality).

NLIHC's Suggestions and Assumptions

NLIHC is making the following suggestions and assumptions. All are SUGGESTIONS:

- Advocates should seek the deepest possible affordability for rents and the longest possible periods of affordability for NHTF-assisted units.
 - All funds in the first year should be used for rental housing, and none should be used for homeownership activities.
 - All funds in the first year should be distributed by MSHDA to eligible recipients, with no funds going to subgrantees. The allocation in 2016 will be too small to justify subgrantees.
 - All funds in first year should be used to expand extremely low income (ELI) rental housing and have maximum impact.
 - NHTF must not be used to supplant other federal or state funds.
 - Please minimize using NHTF for preservation of existing federally assisted housing, including in the context of Rental Assistance Demonstration (RAD) or Choice Neighborhood Initiative (CNI) projects.
 - In order to maximize affordability, projects with no debt service or as little debt service as possible should be preferred.
 - Therefore, the preferred forms of assistance are grants or no interest loans.
 - However, if a project will also use Low Income Housing Tax Credit (LIHTC), don't use grants and make sure the loan is structured as a zero-interest loan with a maturity date that is later than the debt on the property (not a source of regular cash flow).
- Michigan draft HTF Allocation Plan: equity investments or loans.
- Given the small amount of money available in the first year, NLIHC recommends focusing on projects with the most impact, as opposed to distributing small amounts of money to many projects.

NHTF Allocation Plan Elements

The interim rule for the NHTF lists the elements that must be included in the NHTF Allocation Plan. They are:

1. Description of distribution of funds (ST).
2. Application requirements (REG).
3. Criteria for selecting applications submitted by recipients.
Criteria must meet priority housing needs in the Michigan ConPlan (ST).
4. Michigan's maximum per-unit development subsidy limit for NHTF-assisted housing for all areas of the state (REG).
5. If funds are to be used for first-time homebuyers, identify resale or recapture provisions (REG).
6. Whether Michigan intends to directly select applications from recipients and/or to use subgrantees to select applications (REG).
7. Priority for funding must be based on:
 - a. Geographic diversity (ST); Notice CPD-16-07 adds, must be consistent with affirmatively furthering fair housing.
 - b. Applicant's ability to obligate funds and undertake eligible activities in a timely manner (ST).
 - c. For rental housing, extent to which project has rents that are affordable, especially to extremely low income households (ST); has federal, state, or local project-based rental assistance so that rents are affordable to extremely low income households (REG).
 - d. For rental housing, length of the units' affordability period (ST).
 - e. Merits of the application in meeting state's priority housing needs (ST).
 - f. Extent to which applicant makes use of non-federal funding sources (ST).
8. Description of eligible activities and eligibility requirements for recipients (ST).
9. Certification by each recipient that NHTF-assisted housing units will comply with NHTF requirements (ST).
10. Performance goals and benchmarks consistent with state's proposed accomplishments (ST).
11. Rehabilitation standards that NHTF-assisted projects must meet (REG).
12. NHTF affordable homeownership limits (REG).
13. Preferences or limitations to a particular segment of ELI or VLI (very low income) population (REG).
14. Requirements and conditions under which existing project debt may be refinanced (REG).

Model Allocation Plan for Michigan

To the best of our ability, NLIHC has attempted to discern from the NHTF Interim rule, other HUD documents, and the Michigan ConPlan Plan, what should be included in Michigan's NHTF Allocation Plan. HUD NHTF Allocation Plan guidance was published on April 26, 2016 as Notice CPD-16-07; it is primarily a repeat of the interim regulations, with very little additional information or guidance, <https://www.hudexchange.info/programs/htf/cpd-notices>.

1. Description of Distribution of Funds

ALL SUGGESTIONS

MSHDA will prepare a Request for Proposals (RFP) that will describe in detail eligible applicants, eligible activities, what an application is to include, when and where applications are to be submitted, the criteria by which applications will be evaluated, who will review the applications, and when grant awards are to be made.

The RFP will indicate what Michigan has determined to be the priority housing need(s) it intends to address based on the outcome of its public participation process and the priority needs indicated in its current ConPlan. The RFP may also reference other needs assessments that show statewide housing needs.

MSHDA will convene an application review panel composed of state officials and at least two private representatives of the housing and homeless advocacy community who are not affiliated with any applicant.

MSHDA will determine which applications are responsive to the application requirements and present those to the members of the application review panel. The panel members will independently review each application and rate it according to the published criteria. The panel will then meet to reconcile their scores and settle on agreed upon recipients.

MSHDA will be responsible for executing contracts.

2. Application Requirements

ALL SUGGESTIONS

MSHDA will detail the application requirements in the Request for Proposals (RFPs), including:

- Project information similar to that required for LIHTC applications.
- How the project responds to priority housing needs that Michigan intends to address.
- How the project responds to the six priority factors listed in the statute.
- Description of the plan and methods for achieving affordability (rent no greater than 30% of household income) for households at 30% AMI, 20% AMI, and 10% AMI.
 - Michigan draft Allocation Plan assumes HTF units integrated into projects with LIHTC, bonds, etc.
- Description of how NHTF-assisted units will be integrated with units that have higher income targeting.
- Description of how the project affirmatively furthers fair housing.
- Description of tenant recruitment and selection process.
- Definition of a successful resident. Description of services that will be provided to maximize resident success.
- Evidence of applicant's successful completion and operation of similar projects.

3. *Criteria for Selecting Applications Submitted by Eligible Recipients (Criteria Must Meet State’s Priority Housing Needs)*

ALL SUGGESTIONS

a. Threshold criteria

- Responsiveness to application requirements.
- Project reflects priority housing need(s) found in ConPlan that the state intends to address.

Final criteria, rating based on:

- Six priority factors listed in the statute
- Creativity and innovation
- Feasibility
- Potential for resident success
- Applicant’s credentials

According to Michigan’s 2015-2019 ConPlan:

General housing needs

“Based on the data, small related households and the elderly under 50% AMI with a cost burden are the most in need of rental and owner-occupied housing assistance.” [page 30]

“In Michigan, by far the most common housing problem is high housing cost burden. Predictably, the proportion of households experiencing this problem increases as household income levels decrease: about 70% of all renter households reporting severe cost burdens earn less than 30% of AMI.” [page 31]

Housing Market Analysis

“A significant portion of Michigan's population is aging and therefore, additional rental unit choices and accessible units will be needed. Single family safe, decent, and affordable housing units both owner-occupied and rental are also needed.” [page 59]

Priority Housing Needs

Michigan’s ConPlan lists as “high” priority [page 84]:

- Extremely Low, Low, and Moderate Income
- Large Families, Families with Children, and Elderly

4. *State's Maximum Per-Unit Development Subsidy Limit for Housing Assisted with Funds for All Areas of State*

The state must establish maximum limits on the total amount of NHTF funds that can be invested per-unit to develop “non-luxury” housing, with adjustments for number of bedrooms and location. Limits must be reasonable and based on actual costs (REG).

HUD issued guidance regarding maximum per-unit development subsidy limits as an FAQ on May 12, <https://www.hudexchange.info/faqs/2766/how-should-states-establish-maximum-per-unit-development-subsidy-amounts>.

These are not as prescriptive as HOME maximum per unit subsidy limits because HUD recognizes that deeper targeting for NHTF units will require more subsidy.

- Michigan's draft NHTF Allocation Plan will use the HOME maximums.

Advocates should assess whether the HOME maximum per-unit subsidy amounts are too restrictive.

5. *If Funds Are to be Used for First-Time Homebuyers, Identify Resale or Recapture Provisions*

SUGGESTION: NLIHC suggests using all funds for rental housing in the first year, so possible Allocation Plan language is: “Michigan does not intend to use any funds for homebuyer activities in the 2016 funding cycle.”

- Michigan's draft NHTF Allocation Plan indicates that all assisted units will be rental.

6. *Whether State Intends to Directly Select Applications from Eligible Recipients and/or To Use Subgrantees to Select Applications*

SUGGESTION: NLIHC suggests that all funds be awarded directly by Michigan to eligible recipients in the first year, so possible Allocation Plan language is: “Michigan does not intend to make grants to subgrantees in the 2016 funding cycle.”

- Michigan's draft NHTF Allocation Plan indicates that it will not use subgrantees.

7. The Priority That Will Be Placed on the Six Priority Factors for Awarding Funding to Eligible Applicants

Awarding of NHTF to applicants should be based on total maximum points = 100 (SUGGESTION)

➤ Michigan's draft Allocation Plan gives equal consideration to 7 areas.

a. *Geographic diversity* (ST). **(Maximum points = 0)**

Given the relatively small amount of money available in the NHTF for the first year, NLIHC suggests focusing on projects with the most impact, as opposed to distributing small amounts of money to many projects (SUG).

➤ Michigan draft Allocation Plan: "Distribution will be statewide."

b. *Applicant's ability to obligate funds and undertake eligible activities in a timely manner* (ST). **(Maximum points = 10)**

While the statute and regulations refer to an applicant's ability to "obligate" funds (ST and REG), obligate is not defined. The regulation refers to the "commitment" of funds (REG).

➤ Michigan draft Allocation Plan:

- "Readiness to proceed including the ability to expend funds in a timely manner and achieve required expenditure benchmarks."
- "Capacity of development team."

- MSHDA must "commit" its NHTF funds within 2 years (ST and REG), and expend funds within 5 years (REG).
- Factor b concerns the capacity of the applicant/potential recipient. The regulation defines "commitment" for eligible recipients as:
 - For new construction or rehabilitation, capacity to start construction within 12 months of date of contract between the recipient and MSHDA (REG).
 - For acquisition of existing housing, receipt of title to the property within 6 months of the date of contract between the recipient and MSHDA (REG).

c. *The extent to which rents...are affordable, especially for ELI families* (ST); *the extent to which the project has federal, state, or local project-based rental assistance so that rents are affordable to extremely low income families* (REG). **(Maximum points = 40)**

➤ Michigan draft Allocation Plan: "Availability of project based subsidy for extremely low-income tenants."

- "Affordable to extremely low income families" is defined as families not paying more than 30% of their household income for housing costs, including utilities (SUGGESTION).
- There is no basis in the statute for the rule using "has federal, state, or local project-based assistance".
- So, NLIHC suggests that "project-based rental assistance" includes, but is not limited to, unit-based rental assistance, operating subsidies, or cross-subsidization of rents within the project (SUGGESTION).
- Up to 33% of MSHDA's allocation may be used for operating cost assistance and/or operating cost assistance reserves for NHTF-assisted units (REG). HUD intends to issue guidance on operating costs for the NHTF later in the year.

d. *For rental housing, the duration of the units' affordability period (ST) (Maximum points = 15)*

- Minimum affordability period of 30 years is a threshold requirement (REG).
- The extent to which a project exceeds the 30-year minimum determines its duration points, to a maximum of 15 points for projects that commit to affordability in perpetuity (SUGGESTION).

➤ **Michigan draft Allocation Plan: "No less than 30 years."**

e. *Merits (ST) of the application in meeting priority housing needs of the state (REG) (Maximum points = 25)*

- Meeting Michigan's priority housing needs, as identified in the 2015-2019 ConPlan, is a threshold requirement.

Michigan's ConPlan lists as "high" priority [page 84]:

- Extremely Low, Low, and Moderate Income
- Large Families, Families with Children, and Elderly
- The extent to which a project meets the needs of the lowest income households within the state's priority housing needs (SUGGESTION), to a maximum of 25 points.
- Examples (SUGGESTION):
 - Projects that serve people with special needs, who are homeless, or ex-offenders.
 - Projects affordable to households with incomes less than 15% AMI or whose sole income is SSI.
 - Michigan has a shortage of 112,000 rental units affordable and available to households with income less than 15% of the area median income (AMI).
 - For every 100 renter households with income less than 15% AMI, there are only 16 units affordable and available to them.
 - 91% are paying more than half of their income for rent and utilities.
 - Projects proposed by nonprofits.
 - Projects that do not cause displacement.

➤ **Michigan draft Allocation Plan:**

- "Proximity to appropriate amenities including compliance with site selection criteria and state place based priorities."
- "Availability of support services."

f. *Extent to which application makes use of non-federal funding sources (ST). (Maximum points = 10)*

- Extent to which application makes use of state and local publicly-controlled funds and/or land donated by state or local government to achieve deep affordability for ELI households (SUGGESTION).
- Extent to which application makes use of private funds or in-kind commitments, including land donated by state or local government to achieve deep affordability for ELI households (SUGGESTION).

➤ **Michigan draft Allocation Plan: "Leveraging of non-federal source".**

8. Eligible Activities and Eligibility Requirements for Recipients

Eligible Activities

The primary purpose of the NHTF is to support the creation or preservation of rental housing that is affordable to extremely low income households. NHTF funds will be focused on activities that acquire, produce, or rehab rental housing for the benefit of ELI households.

NLIHC recommends that eligible activities be limited to:

- The production and rehabilitation of rental housing affordable to extremely low income households (SUG).
 - Up to 33% of Michigan’s NHTF allocation may be used for operating cost assistance and/or operating cost assistance reserves (REG).
 - May only be provided to rental housing acquired, rehabilitated, reconstructed, or newly constructed with NHTF funds (REG).
 - Includes costs for insurance, utilities, real property taxes, and maintenance, and scheduled payments to a reserve for replacing major systems (REG).
- Michigan draft Allocation Plan: operating reserves are eligible project cost.

SUGGESTION: “Michigan does not intend to permit NHTF funds to be used for homeownership activities or for the new construction, rehabilitation, or preservation of federally assisted housing in the 2016 funding cycle.”

- Michigan’s draft HTF Allocation Plan: “Eligible Developments-Any new construction, adaptive re-use, or rehabilitation of a multifamily rental housing development...including existing affordable housing and small scale rental developments.”

Eligible Recipients

An eligible recipient is an organization, agency, or other entity, including a nonprofit or for-profit entity (ST) or public housing agency (REG).

Consider limiting recipients to nonprofits in the first year, or to for-profits that have a proven track record of providing and operating rental housing for ELI households. (SUGGESTION).

- Michigan draft Allocation Plan: “Eligible recipients will include a non-profit or for-profit organization, or a public housing authority that will serve as the owner or developer of affordable rental housing.”

An eligible recipient must:

- Have demonstrated experience and capacity to conduct an eligible NHTF activity as evidenced by its ability to:
 - Own, construct, or rehabilitate, and manage and operate an affordable multifamily rental housing development (ST); and
 - Serve extremely low income households and special needs populations, such as homeless families and people with disabilities (SUGGESTION).
- Demonstrate the ability and financial capacity to undertake, comply, and manage the eligible activity (ST).
- Demonstrate familiarity with the requirements of other federal, state, or local housing programs that may be used in conjunction with NHTF funds to ensure compliance with all applicable requirements and regulations of such programs (ST).
- Must make acceptable assurances to MSHDA that it will comply with NHTF program requirements during the entire period that begins when the recipient being selected to receive NHTF funds and ends at the conclusion of all NHTF-funded activities (ST).

9. Certification by Each Recipient that NHTF-Assisted Housing Units Will Comply with NHTF Requirements

MSHDA requires each eligible recipient to certify that housing units assisted with NHTF funds will comply with all NHTF requirements (ST).

> Michigan draft Allocation Plan has such a certification.

The certification must include (SUGGESTION):

- The number of units in a NHTF-assisted project by income group: extremely low income, very low income, moderate, and above moderate (SUGGESTION);
- A statement declaring that all tenants of a NHTF-assisted development meet the income limits as required by program guidelines (SUGGESTION); and
- A statement declaring that recipient will comply with rent limits, determined to be no more than 30% of 30% of the area median income (SUGGESTION).

10. Performance Goals and Benchmarks Consistent with State's Proposed Accomplishments

This section refers to the proposed accomplishments in the affordable housing section of the Strategic Plan part of the ConPlan. The state must specify the number of extremely low income, low income, and moderate income families and homeless persons for whom the state will provide affordable rental housing.

Affordable rents are defined as not exceeding the greater of 30% of the federal poverty line or 30% of 30% AMI (REG).

- There is no basis in law for using 30% of poverty line.
- Will cause NHTF-assisted households to pay more than 30% of income for rent and utilities.

Michigan's 2015-2019 ConPlan does not provide goals for extremely low income households even though ConPlan regulations require such a breakdown by income categories.

"The State's annual affordable housing goals are subject to change, based on funding award decisions made, based on product demand and availability of funds."

[page 101]

General Goals [page 95]:

- Construct 150 rental units and rehab 600 rental units with HOME.
- Construct 10 rental units and rehab 100 rental units with HOME and CDBG.

To achieve maximum affordability, an Allocation Plan should set performance goals about (SUGGESTION):

- The number of extremely low income families and homeless people who will be assisted with affordable housing, with affordability defined as:
 - 30% of household income (SUGGESTION); or
 - The number of families or persons who will have rents set at 30% of 20% AMI or 30% of 10% AMI (SUGGESTION).

11. Rehabilitation Standards that NHTF-Assisted Projects Must Meet

MSHDA must establish rehabilitation standards for all NHTF-assisted housing rehabilitation activities. The standards must set forth the requirements that the housing must meet upon project completion. The description of standards must be in sufficient detail to determine the required rehabilitation work, including methods and materials. (REG) Also see FAQ on HUD website.

The standards may refer to applicable codes or they may establish requirements that exceed the minimum requirements of the codes (REG).

Standards must address, at a minimum: health and safety; major systems; lead-based paint; accessibility; disaster mitigation; state and local codes, ordinances, and zoning; uniform physical condition standards; and, capital needs assessment (REG).

- Michigan draft Allocation Plan: Projects must comply with MSHDA's Multifamily Standards of Design.

MSHDA should ensure that it has taken all reasonable steps to minimize the displacement of residents as the result of rehabilitation activities (REG).

HUD issued FAQ in May.

Recipients that propose phased rehabilitation activities that do not cause displacement should be given preference, such as receiving more points when MSHDA examines the merits of an application – see 7(d) of the Allocation Plan (SUGGESTION).

12. Resale and Recapture Guidelines if Funds Used for First-Time Homebuyers

SUGGESTION: NLIHC suggests using all funds for rental housing in the first year, so possible Allocation Plan language could be: "Michigan does not intend to use any funds for homebuyer activities in the 2016 funding cycle."

13. NHTF Affordable Homeownership Limits

SUGGESTION: NLIHC suggests using all funds for rental housing in the first year, so possible Allocation Plan language could be: "Michigan does not intend to use any funds for homebuyer activities in the 2016 funding cycle."

14. Preferences or Limitations to a Particular Segment of ELI Population

MSHDA will only limit or give preference to a particular segment of the extremely low income population if based on the state's priority housing needs as described in the Michigan Consolidated Plan and Annual Action Plan.

Any such preference or limitation will be memorialized in the written agreement between the State and eligible recipient (REG).

The Michigan 2015-2019 ConPlan does not give high priority to extremely low income population.

Michigan's ConPlan lists as "high" priority [page 84]:

- Extremely Low, Low, and Moderate Income
- Large Families, Families with Children, and Elderly

➤ **Michigan's draft Allocation Plan: Preference for projects that create units for veterans. Developments that screen for veteran status when establishing wait lists for available units will offer units to veterans first.**

Any limitation or preference must not violate nondiscrimination requirements. Federal fair housing requirements, including the duty to affirmatively further fair housing, are applicable to the NHTF program. A limitation does not violate nondiscrimination requirements if the housing project also receives funding from a federal program that limits eligibility to a particular segment of the population, such as the Housing Opportunity for Persons Living with AIDS program, and the Section 202 and Section 811 programs (REG).

15. Requirements and Conditions Under Which Existing Project Debt May Be Refinanced

MSHDA may permit the use of NHTF funds toward the cost of fully or partially refinancing existing debt on a multifamily rental property provided the following conditions are met (REG):

- Refinancing is necessary to reduce overall costs and to make the housing more affordable (REG).
- Refinancing is proportionate to the number of NHTF-assisted units in the property. The proportional rehab cost must be greater than the proportional amount of the debt that is being refinanced (REG).
- MSHDA must establish refinancing guidelines and include them in the ConPlan. The guidelines must (REG):
 - Demonstrate that rehab is the primary eligible activity.
 - Establish a minimum level of rehab per unit or a required ratio between rehab and refinancing.
- The new investment is being made to create additional affordable units (SUGGESTION);
- A review of the management practices of the applicant must demonstrate that the proposed rehabilitation is not the result of disinvestment in the property by any entity involved in the application for NHTF funds (SUG).

CONPLAN PUBLIC PARTICIPATION REQUIREMENTS

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.

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.

- There must be "adequate" public notice of upcoming hearings.
 - 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.
- Hearings must be held in places easy for lower income people to get to.
- Where there are a significant number of people with limited English proficiency, the public participation plan must say how they can be involved.

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.
- A "reasonable number" of copies of a Proposed ConPlan or Proposed Annual Action Plan must be provided for free.
- The public must have at least 30 days to review and comment on the Proposed ConPlan or Proposed Annual Action Plan.
 - The state or local subgrantee must "consider" these comments.
 - 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.

General Public Participation Provisions

- A copy of the Final ConPlan or Annual Action Plan must be available to the public.
- States and local subgrantees must respond in writing within 15 days to written complaints.
- Access to information must be reasonable and timely.
 - 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.).