

APPENDIX C

2018 PUBLIC PARTICIPATION, HEARINGS AND INFORMATION REQUIREMENTS

PUBLIC PARTICIPATION

Jurisdictions must provide opportunities for public participation, particularly for Low/Mod persons and others that may be affected by the proposed CDBG-funded activities. **Public meetings and hearing processes must be conducted in accordance with state CDBG regulations 25 CCR Section 7080, otherwise the application may be determined to be ineligible.**

Applicants must ensure compliance with the Federal Regulations 24 CFR 570.486(a) and the State of California's Annual Action Plan Update to the Consolidated Plan:

Purpose of Public Participation:

- To inform the public of the intent to apply for and use CDBG program funds;
- To inform the public of the intent to spend CDBG Program Income (PI) funds on an eligible CDBG activity;
- To allow the public the opportunity to provide input into what activities they deem priorities of the jurisdiction and for which the jurisdiction should apply;
- To provide the public an assessment of the CDBG program accomplishments.

Required Jurisdiction's Actions:

- To publish public hearing notices in a newspaper of general circulation within the city/county.
- To hold Public Hearings.
- To submit a certified copy of the Public Hearing Notice and documentation verifying the jurisdiction held the public hearing.

Note: *If the applicant intends to submit an application for funding and will request a waiver to the expenditure rule, the public hearing notice and Resolution must identify that the jurisdiction will apply for CDBG funds and requests approval to submit the application as an exception to the 50 percent Expenditure Rule.*

Pursuant to the State's Annual Action Plan, all local governments must comply with the following requirements:

Public Participation Requirements for Local Governments receiving CDBG (Section 91.115(e)):

The State encourages public participation in all aspects of the State's CDBG program, including the planning and development of the State's program and the local application and implementation process. To promote public participation as program beneficiaries, especially Low/Mod persons, the State encourages applications by local governments where high rates of poverty exist, and encourages eligible local governments to use CDBG funds to principally benefit targeted income group households. The State requires local governments that receive CDBG funds from the State to comply with at least the following public participation requirements:

1. Local governments that apply for and administer CDBG funds must have active public participation processes that encourage participation by Low/Mod persons and by residents of neighborhoods with high concentrations of housing and community development needs and Low/Mod persons and households.
2. In accordance with federal regulations (24 CFR, Section 570.486), the State requires local governments to meet federal public participation and noticing requirements. The required public participation activities include holding accessible public hearings after proper notice. Proper recordkeeping is required. The State monitors for compliance with these federal requirements during its review of each grantee's performance.
3. Local governments must meet the needs of limited-English speaking persons where significant numbers exist.
4. In accordance with CPD Notice CPD 05-03, issued by the U.S. Department of Housing and Urban Development (HUD), Community Planning and Development, on June 6, 2005, regarding the New Freedom Initiative, local governments participating in the CDBG Program are encouraged to expand their outreach efforts to persons with disabilities. This expansion is intended to ensure that persons with disabilities are aware of the support that may be available to them through CDBG-assisted programs in the jurisdictions in which they reside. The State recommends that local government applicants and grantees of the State CDBG Program notify and partner with local disability advocacy groups, Independent Living Centers (ILCs), and persons with disabilities to identify the needs of persons with disabilities and to determine how best to address the identified needs. The New Freedom Initiative is intended to remove the barriers to community living that are present in the lives of persons with disabilities.

PUBLIC HEARINGS AND MEETINGS

Both a public hearing and a public meeting must be publicly noticed in a local newspaper of general circulation, or posted in at least three public places. Public hearings are typically held before a local governing body and adhere to the following protocol:

1. Public noticing
2. Open and close the hearing
3. Public comments recorded and made part of meeting minutes
4. Have available on the local jurisdiction's webpage or in public view

Applicants may choose to conduct CDBG public meetings using the public hearing process to allow for consistency.

All hearings shall be noticed pursuant to the local governing body's standard noticing requirements. It is recommended to allow 10 days of notice prior to the public hearing. However, at a minimum, all public hearings must follow the requirements of the Brown Act of 2003. Hearings shall be held at a time and place convenient to the public, with accommodations made for persons with disabilities. Where a significant number of limited-English speaking persons can reasonably be expected to participate, the notice must be in the appropriate language(s) and provision must be made for interpreters at the hearing.

Public notices shall contain the following information:

1. The time and place of the hearing

2. The availability of a Public Information File about the CDBG program
3. The reason for the public hearing; topic(s) for which comments are being heard
4. All CDBG topics to include both grant and program income funded activities
5. An invitation to submit written comments and guidance on where to send such comments

In addition, specific public hearings require specific information in the public notice, as noted in the following sections.

APPLICATION HEARINGS

It is important to fully disclose the following information at public meetings and hearings prior to submitting the application to the Department. Sample Notices are provided in this appendix.

Proof of publication of the actual public meeting and public hearing notices must be included in the grant application.

24 CFR 570.486(a)(5) states that a local jurisdiction's public participation plan must:

1. Provide for a minimum of two public hearings, each at a different stage of the program, for the purpose of obtaining the public's views and responding to proposals and questions.

Together the hearings must cover:

- community development and housing needs;
- development of proposed activities; and
- a review of program performance.

2. The public hearings to cover community development and housing needs must:

- **be held before submission of an application to the state;**
- be reasonable notice of the hearings; and
- be held at times and locations convenient to potential or actual beneficiaries, with accommodations for the handicapped.

3. Public hearings shall be conducted in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can reasonably be expected to participate.

25 CCR Section 7080 states that a local jurisdiction's public participation plan must:

1. Include a minimum of one public meeting is required for each program phase.
2. In addition, each applicant shall hold a minimum of one public hearing prior to submitting the application.

- A. **At Application Design Phase:** At least one publicly-noticed meeting must be held during the time when the applicant is determining what the community development and housing needs are and deciding which local project(s) or activity(s) to apply for funding. This public meeting is not required to be in front of the governing body but members of the governing body should be in attendance. All residents, especially in the areas where funds will be used, should be encouraged to participate. The public notice for this hearing must include the following information:

- The amount of CDBG funds expected to be made available for the current fiscal year (including the grant and anticipated program income) for the CDBG NOFA and,
- The applicant's available amount of CDBG Program Income on hand or anticipated.

Furthermore, at this hearing, the following information must be included:

- An explanation of the CDBG program;
- An opportunity for attendees to ask questions and suggest possible uses of funds;
- A discussion of the National Objectives of the CDBG Program;
- Information about the anticipated amount of funding available, the range of possible activities that may be undertaken with CDBG funds, and the opportunities for public involvement as the program progresses; and,
- An invitation for written comments and how to submit such comments;

If the application includes a request for waiver, it must be included at the hearing.

B. Prior to Submitting an Application for Funding: After the application is prepared and prior to submittal, the jurisdiction shall hold a formal public hearing before the local governing body to adopt the Resolution approving the application. The public notice must include the following information:

- The total amount of CDBG funds being requested; the amount for each activity including any supplemental activities; and,
- a relocation plan, if residents will be relocated as a result of the proposed activity

Furthermore, in the Application Submittal Hearing, the jurisdiction must:

- Provide a full description of the activity(s) and supplemental activities in the application;
- State the total amount being requested, and the amount for each specific activity;
- Provide the amount of CDBG Program Income on hand or anticipated;
- Describe the location of each activity and how it will meet the National Objective(s);
- Provide anti-displacement and relocation plans, if the activity is likely to result in displacement;
- Provide a time schedule of the activity;
- For Planning Assistance (PTA) only, state the amount of cash match and the source of funds;
- Provide opportunities for attendees to comment on the application activities.

If the application includes a request for waiver, it must be included at the hearing.

RECORDKEEPING

The applicant shall keep a record of all public hearings and meetings. The record should contain copies of the public notices, minutes of the hearings documenting that the contents of the notice were discussed at the hearing, a list of attendees and a summary of comments. If no comments were received, that should be noted in the record. We recommend reading the contents of the Notice into the minutes to ensure that all items are discussed. Attendees are not required to sign a sign-in sheet, but the file should show that a list was made available for sign-

in at the start of the hearing. If attendees were present but did not sign-in or if no one attended, the file should so indicate.

DECISIONS REGARDING APPLICATION CONTENT/GRIEVANCES AND COMPLAINTS

The local governing body has the sole discretion of deciding the contents of an application for funding. Any allegations made by any resident of the community that the procedural or legal requirements of the program are being violated should be thoroughly investigated. Any written complaints and grievances must receive a written response within 15 days where practicable.

SAMPLE NOTICES

Sample public notices for use at the application design stage and the application submittal stage are given below. Copies of the affidavits of publication (or if posted, copies must be certified by city/county clerk) must be included in the application.

SAMPLE - NOTICE OF PUBLIC MEETING FOR DESIGN PHASE

Notice of Public Meeting for Discussion of Possible State CDBG Application

NOTICE IS HEREBY GIVEN that the *(jurisdiction)* will conduct a public meeting on *(date)* at *(time)*, at *(place)* in order to discuss possible applications for funding under the next fiscal year's (July 1 to June 30) State Community Development Block Grant (CDBG) Program and to solicit public input on possible competitive and supplemental activities to be included in the application.

The Community Development and Economic Development Allocations of the State CDBG program will be published a combined "Notice of Funding Availability" (NOFA) each program year. Eligible cities and counties may submit applications for CDBG funds under the NOFA for a maximum per application request of \$ 3,000,000. It is estimated that the funding of the State 2018 CDBG program allocation is approximately \$29,000,000. The Economic Development "Over-the-Counter" (OTC) Allocation requires a separate application with a maximum limit of \$3,000,000 per year. The NOFA also includes the Native American and Colonia's Allocations. The Native American Allocation is only for areas with high concentrations of low-income Native American residents, who are not part of a federally recognized Native American Indian tribe or Rancheria. The Colonia's funding is only for designated communities within 150 miles of the Mexican-American border.

ELIGIBLE ACTIVITIES UNDER THE ABOVE ALLOCATIONS IN THE NOFA CONSIST OF: HOMEOWNERSHIP ASSISTANCE AND HOUSING REHABILITATION PROGRAMS; PUBLIC FACILITY AND PUBLIC IMPROVEMENTS PROJECTS (INCLUDING PUBLIC IMPROVEMENTS IN SUPPORT OF NEW HOUSING CONSTRUCTION); PUBLIC SERVICE PROGRAMS, PLANNING STUDIES, ECONOMIC DEVELOPMENT BUSINESS ASSISTANCE AND MICROENTERPRISE ACTIVITIES. ELIGIBLE ACTIVITIES PAID FOR WITH STATE CDBG FUNDS MUST MEET ONE OR MORE OF THE THREE NATIONAL OBJECTIVES LISTED IN CDBG FEDERAL STATUTES AS FOLLOWS: BENEFIT TO LOW –MODERATE INCOME HOUSEHOLDS OR PERSONS; ELIMINATION OF SLUMS AND BLIGHT; OR MEETING URGENT COMMUNITY DEVELOPMENT NEED.

The *(jurisdiction)* anticipates submitting an application under the NOFA published during the next program year. The *(jurisdiction)* has or anticipates receiving approximately \$ -----in CDBG Program Income that must be expended prior to expending awarded grant funds.

The purpose of this public hearing is to give the public an opportunity to make their comments known regarding what types of eligible activities the *(jurisdiction)* should apply for under the State CDBG program. A separate public hearing will be held to discuss and approve the application prior to submittal to the State.

If you require special accommodations to participate in the public hearing, please contact *(contact name and phone number)*.

If you are unable to attend the public hearing, you may direct written comments to the *(jurisdiction)*, at *(mailing address)*, or you may telephone *(contact name and phone number)*. In addition, information is available for review at the above address between the hours of *(hours of availability)* on *(days of availability, e.g. Monday -Friday)*.

The *(jurisdiction)* promotes fair housing and makes all its programs available to low and moderate income families regardless of age, race, color, religion, sex, national origin, sexual preference, marital status or handicap.

SAMPLE SECOND NOTICE - NOTICE OF PUBLIC HEARING FOR APPLICATION SUBMITTAL

Notice of Public Hearing for Submittal of State CDBG Application

NOTICE IS HEREBY GIVEN that the *(jurisdiction)* will conduct a public meeting on *(date)* at *(time)*, at *(place)* in order to submit under 2018 State Community Development Block Grant (CDBG) Notice of Funding Availability (NOFA), and solicit public input.

The *(jurisdiction)* is applying for a grant, in an amount not to exceed *(\$amount)* and the approval to expend approximately \$----- in existing or anticipated Program Income under the NOFA for the following eligible activities: *(list specific activities and dollar amounts applied for)*

NOTE:

- 1) Supplemental activities must be identified in the notice;**
- 2) If an activity will likely result in displacement, include reference to the Department's anti-displacement and relocation plan in the notice and indicate the relocation issues will be discussed at the hearing;**
- 3) If applying with a Request for Waiver to the 50 percent Rule, it must be stated in the notice.**

The purpose of the public hearing is to give people an opportunity to make their comments known on the proposed activities/application.

If you require special accommodations to participate in the public hearing, please contact *(contact name and phone number)*.

If you are unable to attend the public hearing, you may direct written comments to the *(jurisdiction)*, at *(mailing address)*, or you may telephone *(contact name and phone number)*. In addition, information is available for review at the above address between the hours of *(hours of availability)* on *(days of availability, e.g. Monday -Friday)*.

The *(jurisdiction)* promotes fair housing and makes all its programs available to Low/Mod persons regardless of age, race, color, religion, sex, national origin, sexual preference, marital status or handicap.

LIMITED ENGLISH PROFICIENCY (LEP)

Final Notice on LEP and Frequently Asked Questions from HUD's FHEO Headquarters

Discriminatory Effect

The Fair Housing and Employment Office (FHEO) have already been making Title VI findings of non-compliance for many years if:

- program shows under-representation of protected class/es likely to include LEP persons;
- recipient cannot show effective outreach and marketing to LEP persons; and/or,
- recipient cannot demonstrate policies to accommodate LEP persons.

Programs to which LEP Guidelines Apply

Any program to which federal financial assistance to HUD is applied, including:

- Public and Indian Housing (PIH): Low-Income Public Housing, voucher, project-based, homeownership, moving to work, etc.
- CPD: CDBG, HOME, ESG, McKinney, etc.
- Housing: project-based Section 8, mod, rehab, etc.

What the LEP Guidelines Require of Recipients

- Are there LEP persons in the service area?
- Devise a plan for oral interpretation & written translations based upon four-factor analysis, in:
 - Outreach
 - Conduct of day-to-day activities
- Take necessary and reasonable step.

Four-Factor Analysis of Needs

- **Factor 1: Identify the number / proportion of LEP persons in the service area:**
 - The more LEP persons, the greater the need.
 - NOT who speaks other languages, but who speaks English less than well or not at all.
 - Data Source: US Census / American Factfinder2 Table QT-P17 or SF 3/DP2 or B16001.
- **Factor 2: Analyze frequency of contact**
 - The more frequent the contact, the greater the apparent need.
 - Anticipate that increased outreach may result in increased frequency of contact and higher overall participation by LEP persons.
- **Factor 3: Analyze importance of contact**
 - The more important the contact, the greater the need.
 - Compulsory participation = high importance.
 - Identification of vital documents (documents that if not translated could result in denial of benefits / exclusion from program even if unintended).

- **Factor 4: Weighing of cost vs. resources vs. benefits**
 - Consider sharing resources with other recipients.
 - Consider industry best practices.
 - Consider that HUD documents are already translated.

Oral Interpretation

- Oral interpretation is always a requirement.
- Recipient must have a plan for communicating with applicant/participant if he/she is unable to communicate effectively in English.
- Language cards to allow identification of language spoken.
- Resources such as language line, use of staff.
- Never: *"If you need a translator, bring your own."*

Written Translations

- Guidelines establish "safe harbor of presumptive compliance" if four-factor analysis of needs establishes:
 - Less than 1,000 persons LEP in one language within service area – translation required.
 - Less than five percent of population LEP in one language (at least 50) = translation required.
 - Disclaimer on translated documents: "provided for information only."

Language Assistance Plan

- Identifies groups who need language assistance.
- States how agency will provide language services (translation plan).
- Train staff on plan.
- Public notice of plan.
- Self-assessment & monitoring of plan's effectiveness.