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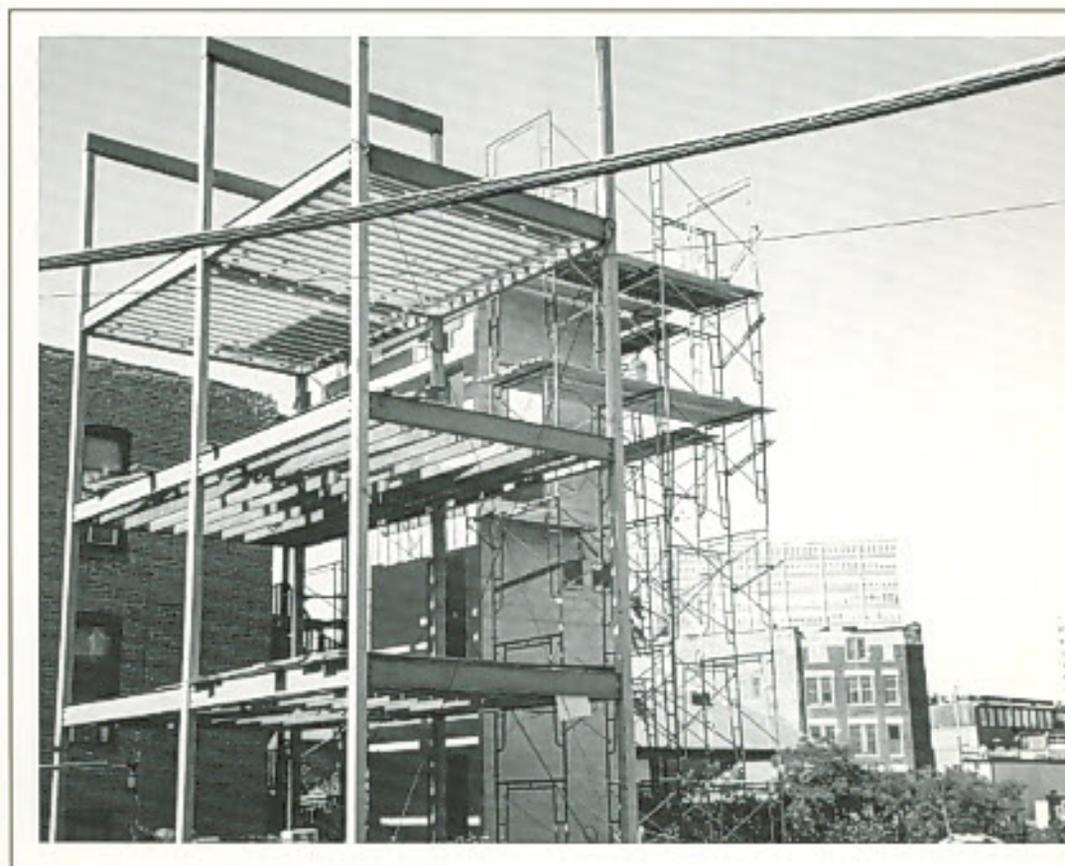
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Consolidated Plan and Community Development Block Grant Advocacy

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Consolidated Plan and Community Development Block Grant Advocacy

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The needs of extremely low-income people are greater than ever; yet the resources available to help meet these needs are limited. Redirecting remaining resources to attend to the housing, job training, child care, transportation, and other needs of extremely low-income people is a challenge as the full effects of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 set in.^{[1/](#)}

I encourage legal services advocates to consider the potential value of involving themselves in the Consolidated Plan (ConPlan) process, which has tied to it significant federal housing and community development monies and is a tool for helping clients participate more fully in public decision making. Some readers are perhaps familiar with ConPlan and the Community Development Block Grant (CDBG) program but may have given up trying to influence outcomes. I hope you will reconsider. For others this may be new terrain. I hope in this article to convince you at least to explore the potential opportunities.

I. Background

CDBG is a block grant that has been around since the midseventies.^{[2/](#)} Although the Housing and Community Development Act mandates public participation, the public participates perfunctorily (at best) in most jurisdictions. In fact, active resistance to genuine participation is found in many jurisdictions.

Since its inception, CDBG has required that lower-income people principally benefit from these funds; yet it is a constant struggle to get CDBG money spent in ways that truly benefit this population, especially those with extremely low incomes. Advocates have worked at the local and state levels to encourage public participation and to get cities to allocate funds better for low-income people by going beyond the minimum requirements of federal law and regulations.

Andrew Cuomo, then the Assistant Secretary for Community Planning and Development (CPD), created the ConPlan in August 1993. The statutory authority for the ConPlan process is the National Affordable Housing Act of 1990.^{[3/](#)} Title I of the Act obligates a jurisdiction both to have **p173** and to follow a housing strategy to receive continued assistance from any of 17 specified U.S. Department of Housing and Urban Development (HUD) programs (primarily CDBG, the Home Investment Partnership Program block grant (HOME),^{[4/](#)} and the McKinney Homelessness Assistance programs). The housing

strategy was later dubbed the Comprehensive Housing Affordability Strategy (CHAS), a five-year, long-range strategic plan designed to identify a jurisdiction's housing needs, establish priorities among those needs, and require a jurisdiction to state how it would use the program resources to address the priority needs.^{[5/](#)} In addition to the five-year CHAS, annual updates were required.

The ConPlan stitches together into one document and one process(1) applications for CDBG, HOME, the McKinney Emergency Shelter Grant program (ESG),^{[6/](#)} and Housing Opportunities for Persons with AIDS),^{[7/](#)} (2) performance reports for CDBG and HOME, and(3) planning requirements of CDBG and CHAS.

At a minimum, every five years jurisdictions must prepare a long-term strategic plan that (1) identifies housing and community development needs, (2) establishes priorities among those needs, (3) declares objectives for addressing priority needs, and (4) suggests programs to realize the objectives. Jurisdictions must submit annual action plans that describe how resources will be allocated to specific activities in order to address priority needs in the upcoming year.

II. Caring About ConPlan/CDBG

Why should advocates consider using the ConPlan to assist clients? Following are four general reasons one should give serious consideration to ConPlan advocacy.

A. Money, Money, Money

ConPlan is tied to several remaining sources of money, including CDBG, HOME, ESG, and Housing Opportunities for Persons with AIDS. These programs can add up to serious money.

For example, between fiscal year 1975 and fiscal year 1998, about \$82 billion in CDBG was allocated to jurisdictions. In fiscal year 1998 about \$6.6 billion was available for the above-mentioned four programs. Although \$6.6 billion is far from sufficient to meet properly the housing and community development needs of low-income people, compared to the Temporary Assistance for Needy Families (TANF) block grant of \$16 billion for fiscal year 1997, this is not an insignificant amount.

Much of this money, especially CDBG, may be used in a variety of ways and may help restore some of the safety net that has been lost for extremely low-income people. The money may be used to help provide affordable housing, social services, and job training and employment.

B. Low-Income People's Money

The laws that authorize these programs target funds to low- and moderate-income people.^{[8/](#)} For example, 100 percent of HOME funds must be used to benefit people with incomes below 80 percent of the areawide median income. Seventy percent of CDBG

must be spent for this same population.^{9/} The downside is that this client population does not *p174* necessarily benefit because 80 percent of the areawide median income is quite high.^{10/}

However, these federal resources are distributed to local and state jurisdictions on the basis of formulas heavily influenced by incidence of poverty and indicators of substandard housing conditions.^{11/} The more people with incomes below the poverty level and the more old (pre-1939) or overcrowded housing there are in a jurisdiction, the more CDBG or HOME money the jurisdiction gets. The money tied to the ConPlan then should reasonably be viewed as poor people's money!

C. Dire Results If No Public Involvement

When low-income people and advocates are not actively involved in the ConPlan process, CDBG is often used to harm low-income people. For example, CDBG may be used to demolish low-income housing and diminish the stock of affordable housing. Scarce CDBG resources may be diverted from uses that help low-income residents and be used primarily to benefit people with higher incomes. For instance, 48 percent of one city's CDBG was used recently for so-called economic development activities, with 13 percent overall going to two international businesses with locations throughout the country.

Without public involvement, substitution (which is the exchange of scarce CDBG money for a jurisdiction's general revenues to pay for traditional municipal functions such as streets, curbs, and gutters, or police and fire protection in low-income neighborhoods) may occur. Substitution frees up general revenues for more affluent areas. However, on the basis of the formulas for distributing ConPlan-related funds, the money is there primarily because of the presence of people with poverty-level incomes and poor housing conditions. Therefore advocates may argue that ConPlan-related money is special money that should be used to meet the special needs of clients. Low-income neighborhoods should show a net gain through the use of CDBG to meet special needs and of general revenues to provide traditional municipal functions.

A more subtle form of substitution is the exchange of HOME and ESG dollars for CDBG dollars previously spent for housing. As a result, money spent for housing shows no net gain even though resources potentially available for affordable housing show some. If advocates are not vigilant some places can suffer a net loss in federal resources devoted to housing.

D. The ConPlan Process as an Advocacy Tool

With vigilant advocates, the ConPlan process is a potential tool for securing greater benefits for clients. While the ConPlan process is flawed, we live in an era where the tools for helping low-income persons are flimsier and, in some cases, extinct. Advocates must seriously consider any tool that is available.

The ConPlan process has a built-in mechanism of public-participation requirements that legitimize active involvement by clients. Public participation helps empower clients, and it may be developed beyond ConPlan and CDBG-related activities to open doors to other local policy making such as zoning, code enforcement, municipal budgeting, policing, and capital improvements.

Each ConPlan usually contains detailed information that the jurisdiction itself publishes. This information may be used by advocates to reinforce arguments that federal resources must be used more directly to meet the needs of clients. Advocates should help clients identify salient data and quotes so that they are able to demonstrate the legitimacy of their needs to policymakers, the media, and the community at large.*p175*

The ConPlan is not just about CDBG and HOME. The plan should discuss and integrate nonfederal housing resources and programs, including state housing programs and local lender practices./12/

The ConPlan is potentially comprehensive (particularly important as the fallout from TANF looms). While it focuses on housing, it goes beyond housing and may be shaped to include other issues critical to clients. These issues, which should be reflected in the ConPlan, include child care, transportation, and job training..

When the ConPlan process is used as a tool, low-income communities may come together to seek additional resources that address critical needs, and they may participate in decision making.

E. Preparing for the Next Full ConPlan

As 2000 approaches, many jurisdictions will be revamping completely their long-term strategic plans and starting ConPlan from scratch. This gives advocates an opportunity to be thoroughly involved in identifying needs and setting priorities that will affect spending through 2005.

We must all start thinking about who should be involved and begin discussions with allies who can contribute to ensuring that the priorities set mirror client needs. How TANF is changing housing needs should be a predominant question.

III. Outcomes to Consider

ConPlan advocacy may lead to a number of beneficial outcomes. The ConPlan process is an annual event. A jurisdiction must submit an annual action plan on how CPD money will be used to achieve the objectives of the strategic plan./13/ This requirement offers advocates and clients ongoing opportunities to seek a variety of goals.

An obvious goal to consider is securing more of the limited CDBG and HOME resources for activities that directly benefit clients. The amount a jurisdiction secures is determined by a formula. The size of the pie is fixed, but advocates may help clients receive bigger

slices by helping clients influence allocations. Advocates can redirect allocations away from inappropriate uses such as building a roof for a park carousel. They should work to redirect the marginal use of funds (e.g., repairing sidewalks) toward what directly benefits clients. They may help clients attempt to gain policies that better target money for activities serving those with client-level incomes.

Advocates may suggest programs and help design projects that directly meet the needs of clients. For instance, they should work with clients to design new rental rehab programs that will address the shortage of decent, affordable rental units for extremely low-income people. They may help redesign existing single-family rehab programs by eliminating obstacles to the programs' full utilization. Such obstacles include (1) maximum loan or grant amounts too small to enable people to meet their housing problems, (2) unduly stringent underwriting standards, and (3) lien provisions that inhibit a program's use (e.g., proscribing heirs from inheriting the house if an elderly owner dies).

Only 15 percent of CDBG money may be spent for public services (which include traditional municipal services such as police but which are primarily used for social services such as recreation).¹⁴ Advocates can research current and proposed uses of CDBG money and then assist clients in assessing priorities for this scarce resource. In light of TANF, should more be spent for child care, literacy training, and transportation? Advocates can help low-income organizations meet the test for being recognized as a community-based development organization, thereby enabling them to provide **p176** services without those services counting toward the 15-percent cap.¹⁵

CDBG may be used for economic development, which is crucial in the aftermath of welfare law changes. In many places whether aid to businesses has yielded the minimum job creation or retention for lower-income people required by the statute is not at all clear.¹⁶ Advocates should analyze past performance and work with clients to seek local policies ensuring that CDBG assistance to business results in significant employment opportunities at livable wages for low-income people. Advocates should help design community-based economic development programs or microenterprise programs and work with clients to gain funding for them.

Another goal is to eliminate or modify projects that harm clients. For example, advocates should design and help promote sensitive code-enforcement measures that are directly tied to CDBG and HOME. This would replace code-enforcement practices that either place extraordinary financial burdens on low-income owners or lead to the displacement of low-income renters.

Advocates may have to help clients build alliances among themselves and other low-income persons and service providers. At a minimum they must work toward clients' public participation to enable them to affect funding allocations and overall community development policy. In many places participation is what low-income groups want to do first, and it makes for a firm basis from which to work on securing other goals.

IV. ConPlan's Advocacy Handles

To have any chance of securing more resources for clients, advocates must look to features of the laws and regulations concerning the ConPlan. Few, if any, of these features are guaranteed to make situations right. The regulations are poorly written; HUD consciously avoided specific recommendations from legal services and other low-income advocates. Nevertheless, ConPlan's modest advocacy handles, when used with low-income people's participation, can lead to more funding and programs to assist clients.

A. The Needs Section

A salient component of the CHAS authorizing statute is the requirement that each jurisdiction describe its housing and homelessness needs.^{[17/](#)} The CDBG statute, by contrast, simply requires that **p177** jurisdictions follow their CHAS^{[18/](#)} and have a community development identifying community development needs and specifies both short- and long-term community development objectives^{[19/](#)}

1. Housing Needs

The CHAS statute prescribes, in general, which housing needs should be identified,^{[20/](#)} while the regulations are quite specific. The regulations require both a portrayal of housing conditions and a characterization of the jurisdiction's demographics, thus yielding a fairly specific set of categories of need.^{[21/](#)} One category, for example, is "Renter household/Large household/Cost Burden > 50 percent/Income between 0-30 percent of median." Categories of need are listed in a table format, "Table 2: Priority Needs Summary Table," that HUD requires for each ConPlan.

Subparagraph (1) of the regulations requires each ConPlan to estimate the number and type of families--broken down by income level,^{[22/](#)} tenure type,^{[23/](#)} and household type^{[24/](#)} --in need of housing assistance. This subparagraph calls for a discussion of cost burden and severe cost burden (paying more than 30 percent and 50 percent, respectively, of income for shelter, which includes utility payments). The required description must include a discussion of overcrowding, especially for large families, and a discussion of substandard housing conditions. These housing problems are to be discussed in the framework of the extent to which they are experienced by the four income categories.

Subparagraph (2) refers back to the four income categories, asking for an assessment of needs if any race or ethnic group has disproportionately greater need in comparison to the needs of that income category as a whole.^{[25/](#)} The ConPlan also must estimate the number of low- and moderate-income families' housing units containing lead-based paint hazards.^{[26/](#)}

2. Homeless Needs

The CHAS statute requires that the needs of homeless people be articulated,^{[27/](#)} and each ConPlan must describe the nature and extent of homelessness among individuals and among families with children, whether they are sheltered or unsheltered. Each plan must

separately address needs for facilities and services. Various subpopulations of homeless people must be described.[/28/](#)

The obligation to describe the nature and characteristics of low-income individuals and families with children (especially those with extremely low incomes) who are currently housed but threatened with homelessness is often overlooked by jurisdictions. The law and regulations require, to the extent practicable, an estimate of the number of people who are *p178* not homeless but who require supportive housing.[/29/](#)

3. Advocacy Handles

Let us not feel sorry for the poor local government official laboring under the burden of needs assessment. HUD gave each jurisdiction most of the required information in a special U.S. Census package (The CHAS Data Book).

Sometimes advocates are not sure how much time to devote to shaping the contents of the needs section or how to analyze a jurisdiction's draft. For some low-income groups, assessing all the data is intimidating. They feel that they may never adequately compete with the experts. For others, especially those who get assistance from individuals and organizations capable of conducting research and analysis, the exercise is worthwhile.

Advocates should rely on what they and their clients know and experience on a daily basis. They should not feel compelled to depend upon formal studies and reports. They should gather clients to talk about their housing needs and work with clients to inform the jurisdiction in writing or at one of the required hearings about their needs and how critical those needs are to an accurate and complete ConPlan.

When analyzing a draft needs section, clients should ask if it adequately portrays existing housing conditions and the demographics of the community, especially the characteristics of the client population, and if information is sufficiently disaggregated to help advocates work for subgroups of the client population (or if the real situation is hidden in summary data).[/30/](#)

The data used in the needs section are mainly from the 1989 U.S. Census. An amended ConPlan may reflect, for example, that housing abandonment is occurring in one section of a neighborhood and exacerbating substandard conditions or that gentrification is reducing vacancies and inflating rents.

How much time and energy is devoted to the needs section may depend on where the jurisdiction is at in its ConPlan cycle. Most jurisdictions prepared a five-year strategic plan in 1995. In subsequent years, as jurisdictions submitted their annual action plans, most advocates needed only to revisit the needs section if a major change occurred. Or, as is often the case, advocates new to the ConPlan process may begin to pay attention to the ConPlan and discover that an obvious component of the community's housing or homeless needs was not adequately addressed in the original. Advocates then must make sure that the omitted categories of need are incorporated into the needs section. In the

next two years many jurisdictions will be completely revamping their long-term strategic plans--an opportunity for advocates to be more thoroughly involved in identifying needs and ensuring that the consequences of TANF on housing needs are accurately reflected.

B. The Priorities Section

Although some jurisdictions do a poor job of presenting needs, most seem to come up with a thorough presentation because HUD gave them virtually all of the data required. However, a different picture emerges from the needs section of most ConPlans and from the long-term (generally five-year) strategic plan. Advocates all across the country have observed that while the needs of extremely low-income people, especially renters, are uniformly recognized as being the most severe, their needs are not adequately reflected in the strategic plan. *p179*

The strategic plan requires jurisdictions to assign priorities to the various categories of need that they identified earlier and requires jurisdictions to articulate specific objectives for addressing their high-priority needs. Jurisdictions must indicate which programs they will fund with CPD resources to reach priority goals.

1. Requirements

The CHAS statute requires jurisdictions to set forth plans for use of CPD funds for the upcoming year or any longer period determined by HUD (now a five-year period, mirroring the period prescribed for needs identification).[/31/](#) The plan must indicate general priorities for allocating investment geographically and the priorities among different activities and housing needs. The statute requires the CHAS/ConPlan to describe how the jurisdiction's plan will address the housing needs identified in the needs section. The ConPlan must describe the reasons for allocation priorities.[/32/](#)

The statute requires the ConPlan to establish priorities for spending CPD dollars, and those priorities are to be set for different geographic areas, different types of "activities" (e.g., new housing construction, rehab, rental assistance), and housing needs (e.g., renters/owners, household size, cost burden, overcrowding, substandard housing). Implicit is Congress' expectation that CPD resources address the needs identified in the needs section according to priorities ostensibly based on some rationale rooted in those needs. Despite specific suggestions to HUD by the Loose Association of Legal Services Housing Advocates and Clients (LALSHAC) CHAS Working Group, the regulations do not embrace the implicit direction of the statute.[/33/](#)

The regulations, like the statute, require that the strategic plan indicate the general priorities for allocating investment geographically and among priority needs as identified in the priority needs table prescribed by HUD.[/34/](#) The table presents various types of households and housing problems and consists of 48 cells where jurisdictions are to indicate whether a category of need is of a "high," "medium," "low," or "no" priority. One cell, for example, is "Renter/Small Related (household)/Cost Burden>50 percent/Income between 0-30 percent median."

Subparagraph (2) echoes the statute and requires that the strategic plan describe the basis for assigning the priority (including the relative priority, where required) given to each category of priority needs.^{/35/} Many jurisdictions fail to do this. At best, most give a general statement about a larger category such as homeowners. Advocates may want to challenge a strategic plan that does not give a basis for each category of priority need.

Subparagraph (4) requires jurisdictions to summarize their priorities and specific objectives and to describe how funds will be used to address identified needs.^{/36/} The term "identified needs" in subparagraph (4) is different from the term "priority needs" used in subparagraph (1). Although not explicit, subparagraph (4) suggests a narrative description of the priorities indicated on the HUD priority needs table. Subparagraph (4) introduces the term "specific objectives," which is nowhere defined. In a number of strategic plans the narratives are remarkably general and sometimes seemingly unrelated to the HUD priority needs table.

2. Focusing on Housing Needs

The regulations offer more guidance regarding housing. They require that the strategic plan "state how the analysis of the housing market and the severity of housing problems and needs of extremely low income, low income, and *p180* moderate income renters and owners . . . provide the basis for assigning the relative priority given to each priority need category in the . . . table prescribed by HUD."^{/37/}

This language is very powerful for advocates. HUD implies that the relative priorities that drive funding allocations ought to be based upon (1) the severity of housing problems and needs and (2) on the income capacity of those experiencing housing problems. A three-person household that has an income at 80 percent of median income and that owns its home is likely to have a housing problem. Housing problems, however, are going to be far greater for a large household having income below 30 percent of the median income and paying more than 50 percent of its income for rent and utilities.

Few jurisdictions base their priorities on the "severity" of the need. Although they may acknowledge severity of need in the needs section or in the strategic plan narrative, it is often not mentioned elsewhere in the strategic plan and ignored in the priority needs table. In most ConPlans people with extremely low incomes are recognized as those with the most severe needs. In general renters (whether at 30 percent or 50 percent of the median) are cited as having the greatest need for housing assistance. Many advocates, however, report that priority is generally given to homeowners and to those at the upper reaches of the income range allowed by the CDBG and HOME programs.

Most often jurisdictions festoon their HUD priority needs table with "high priorities," and the vast majority of the 48 cells on the table are marked with an "H." Everything is of a high priority, allowing expenditure of CPD funds for virtually any housing activity deemed consistent with the ConPlan. The effect is that activities for extremely low-income people are relegated to low-priority status. Less often jurisdictions assign high priority to comparatively few cells on the HUD table. Although they may appear to be

taking the priority-setting exercise seriously, the programs they design and fund belie their sincerity. Rarely jurisdictions ignore priority setting and refuse to assign priorities.

Some advocates have formally complained to their HUD field offices about the relative priorities in their jurisdictions' strategic plans, but generally to no avail.

3. Nonhousing Community Development Needs

Curiously HUD does not require jurisdictions to assign a "relative" priority to nonhousing community development needs. The requirement that relative priorities be assigned is only in the portions of the regulations that explicitly discuss housing.³⁸ For this reason some jurisdictions do not give relative priorities to nonhousing CDBG activities listed on the third part of the table, "Priority Community Development Needs." This part of the table has 42 lines of general categories of nonhousing community development activities (e.g., child care centers, employment training, and microbusiness).

Advocates should ensure that this part of the table is completely filled out to show relative priorities and encourage their jurisdictions to compare nonhousing priorities to housing priorities. Whether to spend CDBG money for road repairs should be compared to the relative priority of the needs of extremely low-income renters paying more than 50 percent of their income for shelter because of the fixed amount of CPD resources available to address high-priority needs. The ConPlan is not "consolidated" if overall priority setting does not include nonhousing uses of CDBG money. If nonhousing needs are not weighed on the same balance as housing needs, then many (if not all) of the benefits of a ConPlan evaporate.

The occasional failure of a jurisdiction to submit the nonhousing portion of the table compounds the frequent absence of "relative" priorities. HUD field offices and headquarters have ignored this problem despite the regulatory prescription.³⁹ Had a legal services advocate used **p181** the leverage of the law and regulation, a low-income community may have been able to convince HUD to compel the jurisdiction to present the table.

Complaining about this missing part of the table is not unjustified. Setting priorities among nonhousing needs informs the community about the activities involved in setting any priorities. With a limited amount of federal aid, relative needs and relative priorities must be carefully debated. The severity of needs of renters paying more than 50 percent of their income for shelter must be compared with the relative needs of businesses that have access to regular commercial sources of capital. Without the complete table, the community may not realize that important activities are not being considered.

4. Programs and Activities

Advocates should not be content with relative priorities that appear to be "good" for lower-income persons. These may just be letters on a HUD table or platitudes in the narrative of a strategic plan. Advocates must ask if proposed programs and activities

make sense given the needs identified and the priorities established, if the proposed programs and activities are designed to address the most severe needs and the highest priorities, and if funding is adequate for programs and activities designed to meet the most critical needs.

Advocates must monitor a jurisdiction's performance after an action plan is made final. If low-income people's efforts result in high-priority setting and adequate funding for certain activities, a jurisdiction may think it has weathered the storm of pressure from the community by simply listing the priorities and the activities on paper. The jurisdiction may then hope that the community is busy elsewhere when little or no money is spent for the priority activities.

Some jurisdictions appear to do a good job of priority setting. They do not pepper the table with Hs and instead give them to the needs of extremely low-income households. However, many priorities are not truly implemented because a disproportionate amount of money is allocated to only one type of priority, or money allocated for a high-priority activity is not spent.

One jurisdiction is an example of both. It gives extremely low-income renters a high priority but spends 75 percent of its CDBG money on infrastructure and owner-occupied assistance, along with 5.5 percent for renters to become owners. Renters are allotted 2.5 percent. What little HOME money it periodically allocates for rental rehab is not spent. A related problem entails programs which are ostensibly intended to serve a high-priority need, such as rental rehab, but which are designed such that they cannot be used. An example is a rental rehab program that unduly limits the per-unit amount of assistance a landlord may receive--resulting in underutilization of the program and no improvement in the stock of decent, affordable rental units for low-income renters.

5. Linkage or Fair Share

The notion "fair share" was coined by the LALSHAC Working Group and is based on the CHAS statute and the ConPlan. The main idea behind fair share is to ask whether the needs of people who have the most severe problems are being funded, at a minimum, with a proportionate amount of CPD resources. Fair share may be described as "linkage"(the connection between the severity of needs, priority setting, and resource allocation). LALSHAC devised a formula and table to help advocates quantify the principle.⁴⁰ Advocates at Monroe County Legal Services (Rochester, New York) used the fair share concept and the table and got good *p182* results by pointing out the disproportionate needs of extremely low-income renters and meeting those needs. HUD has steadfastly refused to implement the principle of fair share despite considerable efforts by LALSHAC and the idea's roots in CHAS. The statute is not straightforward. The basis for fair share was an amendment ("Linkage Between Housing Need and Allocation of Housing Resources") made two years after CHAS was created.⁴¹ The statute does not require that resources be allocated in proportion to identified need, but the amendment makes a link between need and allocation clear.

Advocates may attempt to overcome HUD's regulatory blindness to linkage or fair share by looking for language that supports the spirit of fair share in HUD's Grants Management Systems Policy Notebook.^{42/} One potentially useful language is, "Does the analysis of needs appear reasonable, and is there a logical development of strategies to address those needs?"^{43/} Such language may be used to show the community and local officials that "fair share" is a concept that is not foreign to HUD and that it should be implemented locally.

C. The Antipoverty Strategy

How will the jurisdiction use its HUD money to help people with poverty-level incomes? Congress noted that CPD resources were not addressing the needs of extremely low-income people and introduced "antipoverty strategy" as an amendment to the CHAS statute in 1992.^{44/} The antipoverty strategy requires a ConPlan to

describe the jurisdiction's goals, programs, and policies for reducing the number of households with incomes below the poverty line . . . and . . . state how the jurisdiction's goals, programs, and policies for producing and preserving affordable housing set forth in the housing strategy will be coordinated with other programs and services . . . and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line.^{45/}

The advocacy handle here may be the failure of many jurisdictions to include a genuine antipoverty strategy. HUD may disapprove a substantially incomplete ConPlan, which may mean that the ConPlan fails to satisfy all of the required elements.^{46/} At least two jurisdictions did not bother to include an antipoverty strategy. Others may have something written but fail to address the statutory^{47/} (and regulatory)^{48/} provisions. For example, one jurisdiction's antipoverty strategy is, in its entirety, only 12 lines long. Making matters worse, it claims that all programs that are administered by the jurisdiction are designed to reduce the number of poverty-level families. However, virtually all proposed activities seem oriented to households with incomes far above the poverty line. Most jurisdictions, even if they devote more than 12 lines to an antipoverty strategy, seldom address poverty-level incomes. *p183*

D. Certifications

A number of certifications are required of jurisdictions.^{49/} HUD may disapprove a ConPlan if a certification is inaccurate.^{50/} For example, CDBG recipients must certify that they are in full compliance and that they are following a detailed citizen-participation plan that satisfies the requirements of the regulations.^{51/} Jurisdictions must also certify that they are complying with Section 3 of the Housing Urban Development Act of 1968,^{52/} which requires governments and contractors to ensure to the greatest extent feasible that lower-income people from the area get job training and employment opportunities at construction projects funded with HUD dollars.^{53/}

1. Affirmatively Furthering Fair Housing

Jurisdictions must certify that they are affirmatively furthering fair housing.⁵⁴ Rather than make a fair housing impediments analysis and subsequent action plan a visible and separately identified feature of the regulations, HUD buried it in the regulations' certifications section, which few people know about or read. I have yet to see either an analysis or an action plan as a chapter or integral part of an actual ConPlan. See the companion article on page XX for more on fair housing as a ConPlan advocacy tool.

2. Consistency

Housing activities assisted with CDBG, HOME, and ESG funds must be consistent with the housing strategy.⁵⁵ Note that consistency is applied only to housing activities. HUD defines consistency to mean that the jurisdiction's plan shows need, the proposed activities are consistent with the jurisdiction's strategic plan, and the location of the proposed activities is consistent with the geographic areas specified in the plan.⁵⁶

Because most ConPlans artfully articulate an abundance of needs, virtually any activity meets the first test. Notice how HUD avoids requiring that the activity address a priority need; any need is sufficient for HUD. The second test is not entirely clear, but a rental rehab activity may be assumed to be "inconsistent" if a ConPlan's strategic plan does not list assistance to renters as a specific objective.⁵⁷ Because most strategic plans contain many "general" specific objectives, most activities are consistent with the ConPlan.

Nevertheless, advocates should attempt to convince their HUD field office that a ConPlan is inconsistent if the housing needs of extremely low-income people are not getting a fair share of the CPD resources. This consistency definition highlights the importance of trying to influence how priorities are set and how specific objectives are both selected and articulated.

3. Following the ConPlan

In order to get CDBG money a jurisdiction must "follow" its ConPlan.⁵⁸ The CDBG regulations, however, define "following" very loosely to mean that the jurisdiction takes the planned actions described in its annual action plan.⁵⁹ The language diminishes the value of "following" because it ties compliance to the **p184** annual action plan rather than to the strategic plan. In other words, jurisdictions may write a decent long-term strategic plan but evade its stated objectives by devising an annual action plan that fails to relate to it.

The regulations indicate that "following" includes, but is not limited to,: (1) pursuing all resources that the jurisdiction said it would pursue (an example is if it said it would apply to HUD for some McKinney program funds);⁶⁰ (2) submitting certifications of consistency when requested to do so by applicants for HUD programs for which the grantee indicated that it would support application by other entities, in a fair and impartial manner (e.g., if the jurisdiction said it would support applications by nonprofit entities for Section 811 assistance for people with disabilities, has it honored that pledge or thrown

up roadblocks?);^{61/} and (3) not hindering implementation of the ConPlan by action or willful inaction.^{62/}

What does this mean for advocates? Can advocates argue that a jurisdiction is not following its ConPlan if it identifies extraordinary needs for extremely low-income renters but allocates most CPD resources to moderate-income homeowners or to street repairs downtown? To date, HUD has not applied a commonsense approach to the general concept of "following." In the preamble to the final regulation that codifies the term "following," HUD states that the proposed standard for "following" is general. The standard "is designed to cover broad categories of actions", and that, "[w]ithin these categories, the standard will be as general or as vague as the descriptions of actions contained in each community plan." HUD will "hold each community to the standard of action the community sets for itself in the ConPlan."^{63/} In other words, following the ConPlan may be meaningless. Many jurisdictions' goals in their ConPlan strategic plans are very general, and anything they do is arguably following the ConPlan.

Advocates have not sufficiently tested the HUD regulations' third component, which is not to hinder implementation of the ConPlan by action or willful inaction. Perhaps a series of challenges identifying "action or willful inaction" will compel HUD to enforce a more meaningful interpretation of "following." Advocates may argue that a jurisdiction is not following its ConPlan through willful inaction when it fails to allocate and spend a fair share of CPD money for activities directly benefiting extremely low-income people or when the jurisdiction acts to remove as a high priority any form of assistance to renters.

V. HUD Approval Action

HUD must approve both the long-term ConPlan and each annual action plan.^{64/} HUD may disapprove a ConPlan or a portion of a ConPlan if it is not substantially complete.^{65/} The regulations offer three examples of a substantially incomplete ConPlan: (1) Public participation was not conducted as required. (2) The ConPlan fails to satisfy all the required elements in this part [24 C.F.R. SEC. 91]. (3) Certifications are inaccurate.^{66/} Note that these are only a few examples, and other factors may warrant disapproval by HUD.

As demonstrated earlier, a jurisdiction can easily meet perfunctory public-participation requirements. Yet some jurisdictions still fall short of the citizen-participation regulations. Advocates should attempt to convince the HUD field office that meeting minimum standards is insufficient and that jurisdictions are not adhering to the spirit of public participation as embodied in the law.^{67/} *p185*

I highlighted above a number of the required elements of the ConPlan that some jurisdictions completely fail to include and that many fail to provide in a substantially complete manner as required by the law. Advocates must press HUD to abide by the spirit of the statute rather than simply allowing jurisdictions to have a paragraph or page that ostensibly addresses a required element. If the law calls for an antipoverty strategy,

then an approvable ConPlan should be one that truly discusses how its CPD resources will be used to help people with incomes below the poverty level. An approvable ConPlan should have the "linkage" Congress sought when it amended the CHAS statute to add subparagraphs to help weave together needs, priorities, and activities to determine how funds are allocated.

VI. The ConPlan Process and More Advocacy Handles

In addition to being a "plan," a document, the ConPlan is also an ongoing, yearlong "process." The statute weaves a public-participation obligation throughout this process. Consequently advocates not only have opportunities to work with clients to effect change by analyzing and challenging the contents of the ConPlan but also can find advocacy handles built into the public-participation requirements attendant to the major stages in the ConPlan process.

Both the CDBG and the CHAS statutes contain public-participation requirements. CDBG is stronger because it conveys a spirit of intent to obviate perfunctory public participation. It seeks to enhance public accountability,^{[/68/](#)} and it requires jurisdictions to provide for and encourage public participation with a particular emphasis on participation by persons of low and moderate income.^{[/69/](#)} The regulations make clear that the obligation to provide for and encourage public participation covers the entire ConPlan calendar. Jurisdictions are expected to take whatever actions are appropriate to encourage participation by everyone including minorities, non-English-speaking persons, persons with disabilities, and residents of public and assisted housing.^{[/70/](#)}

The public-participation provisions afford advocates a number of opportunities to help clients become involved in decision making throughout the year as the ConPlan cycle revolves. In this section I highlight the five stages of the ConPlan calendar and present potential advocacy handles.

A. Needs Identification

Both the CDBG and CHAS statutes require jurisdictions to engage the public in identifying housing and community development needs. Both require that there be at least one public hearing each year so that residents may present their ideas about needs.^{[/71/](#)}

The location and timing of events are crucial in encouraging participation by low-income persons as prescribed by the statute and in making public participation truly meaningful.^{[/72/](#)} Several needs hearings are best set in a variety of low-income neighborhoods so that as many people as possible have a chance to talk about their needs. If a jurisdiction is serious about considering the comments of low-income residents,^{[/73/](#)} a significant amount of time must be allowed between the needs-identification stage and the stage when a proposed ConPlan is presented. How much time is reasonable depends on several factors; however, a minimum of 30 days is necessary.

B. The Proposed ConPlan

Once a draft ConPlan is ready, the jurisdiction must give the public a *p186* reasonable opportunity to examine it and submit comments.^{[/74/](#)} The regulations require that complete copies of the proposed document be available in public places such as libraries.^{[/75/](#)} Advocates should ensure that the copies are in fact available, that they are complete (that significant portions are not missing because drafting is still under way), and that copies are available at locations (including neighborhood centers and advocate offices) easily visited by clients.

The regulations also declare that a reasonable number of free copies must be given to residents upon request.^{[/76/](#)} Are free copies available without hassle, without question, when people show up at city hall? Advocates should make sure free copies are available for all who are interested. The draft ConPlan is an important document. People should have their own copy to study at home, to make notes on, and to refer to throughout the year.

The regulations require a minimum of 30 days for the public to review and comment on the proposed ConPlan.^{[/77/](#)} Is 30 days a sufficient? Many may need 45 or 60 days. It often takes several days to learn that the proposed ConPlan is available and then to go to a public place to get a copy. Most people do not have time to sit down and read it all at once. Most may want to look it over several times in order to study and digest it. People then need to talk about it and debate issues in neighborhood or tenant groups. These groups need time to discuss the issues and resolve outstanding differences. Then members of the groups must work to prepare written comments for submission or to prepare oral comments for the public hearing.

Two other timing issues should be considered by advocates. Is the proposed ConPlan available far enough in advance of a public hearing? Jurisdictions usually allow only two weeks. Because public hearings have more potential political power than written comments, the public should have as much time as possible to prepare. On the other side of the review and comment period, advocates should ask whether the end of the period is far enough from a final action by elected officials for officials seriously to consider public comments and modify the ConPlan before sending it to HUD.

The law requires a public hearing at all stages of the ConPlan process. This requirement includes the stage when proposed activities are reviewed.^{[/78/](#)} The regulations for entitlement jurisdictions call for a public hearing during the development of the ConPlan.^{[/79/](#)} Advocates should be sure that this hearing takes place and that it occurs after adequate notice of the hearing.^{[/80/](#)}

C. The Final ConPlan

After elected officials sign off on a proposed ConPlan, it is sent in to HUD for approval. The final ConPlan is also supposed to be available to the public.^{[/81/](#)} Is it? This is the

stage in the ConPlan process when advocates can help clients assess the final ConPlan and submit complaints to HUD by arguing that the ConPlan is substantially incomplete.

D. The Annual Performance Report

Since the beginning of the CDBG program, jurisdictions have been required to submit detailed annual performance reports.^{[/82/](#)} The performance reports are *p187* valuable monitoring tools for low-income community groups because they offer activity-specific information. For example, jurisdictions report how many households benefit by income categories and race. The CHAS law also requires an annual performance report.^{[/83/](#)} Both reports are available to the public.^{[/84/](#)}

Advocates should make sure that the annual performance report is truly available to low-income people. Jurisdictions are often openly hostile. They may tell low-income people that performance reports do not exist or that the public cannot have them. Community groups have been told to file a Freedom of Information Act request (which is not necessary) and have been told to submit their incorporation papers and tax-exempt status materials before getting performance reports. Many jurisdictions discourage public participation by charging 25 cents a page for copying. (Despite suggestions by the LALSHAC Working Group, HUD refused to draft regulations that would waive copying fees for low-income people and groups.) Advocates should look out for such intimidation tactics and assist clients accordingly.

Before an annual performance report is sent to HUD, the public must be given reasonable notice that the report is available and be given a chance to comment.^{[/85/](#)} Most client groups are not aware that the performance report is available or that they may offer comments. Advocates must be alert to the availability of the performance report, help ensure that clients are able to get copies, assist client groups in analyzing the jurisdiction's performance, and assist in preparing comments.

The statute clearly requires that there must be public hearings at all stages of the ConPlan process, including review of program performance.^{[/86/](#)} Since HUD does not require a public hearing at this stage, many jurisdictions lump together a hearing about performance with one about either needs or proposed uses of the next year's money.^{[/87/](#)} Clients should be helped in securing in the citizen-participation plan a provision requiring at least one public hearing concerning the annual performance report and requiring elected officials (not just the staff of the jurisdiction) to conduct the hearing. The annual performance report must be readily available for a minimum of 30 days before a hearing so that people can make informed comments.

1. Technical Changes in the Wind

Changes at HUD regarding the annual performance report are ongoing. Theoretically HUD's management information system (called the Integrated Disbursement and Information System (IDIS)) should provide a timely picture of a jurisdiction's spending and accomplishments on an activity-by-activity basis. Although IDIS may have a lot of

detailed information, the public may get only a broad summary unless low-income people know to ask for more.

According to a HUD memorandum, the IDIS information is available to the public.^{88/} More recently a memorandum to jurisdictions lists four IDIS reports that must be made available to the public.^{89/} Two of them offer most of the activity-specific information at the heart of the old CDBG grantee performance report. HUD claims to be still refining IDIS, so all of the information in the grantee performance report may be eventually restored. HUD plans on **p188** putting key information from each jurisdiction on its Web page once a month.

Advocates should be sure that all of the information crucial for community monitoring is given to low-income community groups. One tactic is to amend a jurisdiction's citizen-participation plan to include language that makes clear to the public that it will have access to all of the specific information previously required by HUD in the grantee performance report.

2. HUD's Role and the Performance Report

Every year HUD must review each jurisdiction's performance report, conduct an on-site assessment, and write a report (to be made available to the public).^{90/} HUD must consider citizen complaints or comments and assess the accuracy of performance reports.^{91/}

Advocates should get a copy of HUD's report. It may list problems the local government must fix. Having the report helps clients monitor whether the jurisdiction is making a genuine effort to comply. The report may support client priorities and therefore promote programs to address client priorities. Advocates may help client groups keep in touch with the HUD field representative responsible for their jurisdiction. When the field representative will be making the site visit is helpful for client groups to know in requesting a meeting. Some groups have arranged tours to point out the problems they think have the highest priority and compare them to the uses of CPD dollars. Such tours may spotlight activities that may appear on paper to benefit lower-income people but have little or no direct benefit.

E. Substantial Amendments

Whenever a ConPlan is substantially amended, basic public review and comment procedures must be followed. As with other features of the ConPlan, this requires giving people reasonable notice that a substantial amendment is proposed so that they have an opportunity to comment. Jurisdictions must consider public comments and then submit to HUD the amendment along with summaries of those comments and an explanation why the comments may not have been heeded.^{92/} In this advocates have a significant role because substantial amendments are likely to pop up at any time, especially when the community is not expecting changes.

There is a problem. With one exception, the law leaves it to jurisdictions to define "substantial." A change in the use of CDBG from one activity to another is deemed substantial.^{93/} Because only a *p189* substantial amendment may trigger the formal public-participation process of the ConPlan, advocates should help clients convince the jurisdiction to write, in the citizen-participation plan, a strict definition of what constitutes a substantial amendment.

A good place to start is to include the phrase from the old CDBG regulations before they were modified for the ConPlan--substantial is a "change in the purpose, scope, location, or beneficiaries of an activity."^{94/} Another criterion for a substantial change should be a change in the relative priorities listed in the strategic plan or on the priority needs table. Advocates should also consider a requirement that substantial amendments be subject to a public hearing.

VII. The Citizen-Participation Plan

The CDBG statute requires that jurisdictions have and follow a detailed plan providing for and encouraging citizen participation and that they emphasize participation by persons of low and moderate income.^{95/} The regulations echo this.^{96/} The formal written citizen-participation plan must be available to the public.^{97/}

However, in some cities people have had a difficult time getting a copy of the citizen-participation plan. Some would be given a plan that did not meet the requirements introduced in 1995. The availability of a citizen-participation plan is not about narrowly conforming to regulations. The public needs to know what the jurisdiction's formal procedures are so that they are aware of their rights and responsibilities. Most plans are poorly written and do not provide a clearly drawn map to full involvement by low-income people. One task of advocates is to work with client groups and other low-income groups to modify citizen-participation plans so that they truly encourage and provide for involvement.^{98/}

A. Access to Information

From the very beginning of the CDBG program in 1974, Congress wanted local and state governments to be accountable to the public. It intended that the public know how a jurisdiction spent its money and how it planned to spend future resources.^{99/} One requirement of this principle is that the public must be given reasonable and timely access to key information, records, and local meetings.^{100/}

Although the regulations leave to jurisdictions the decision about how the standard ConPlan documents will be made available to the public,^{101/} the regulations about the proposed ConPlan may serve as a basis for how key documents should be treated.^{102/} To ensure that the documents are truly available and to encourage true participation by low-income people, advocates can help clients in obtaining copies of the ConPlan documents.

Advocates can make copies of the documents available at various public places, especially neighborhood centers and other facilities where clients feel comfortable and may easily visit. They can give copies free of charge to interested individuals. Copies in libraries and neighborhood centers are necessary but not sufficient. Active client involvement is an **p190** ongoing, yearlong endeavor. People need to have their own copies of standard documents at home to digest in small increments, to scribble notes on, and to refer to frequently. Clients should be able to obtain these fundamental materials without having to pay 25 cents a page for 100-page documents. Jurisdictions may use up to 20 percent of their CDBG money plus up to 10 percent of their HOME money for copying expenses. The money is there. They can provide free copies of the documents within two days of a request, if not immediately. These are standard documents that should be readily available. A longer delay discourages participation. They can provide copies

in plenty of time for people to read them, study them, and discuss them with others. Too often materials are presented only at public hearings or at best with only a week or two to analyze them.

B. Public Hearings

A few features about public hearings are worth mentioning. The statute requires that public hearings take place at times and locations convenient to potential or actual beneficiaries.^{[103/](#)} Advocates should ensure that their citizen-participation plan comply with this requirement. Public hearings at 9:00 A.M. should not be allowed, and City Hall is probably not the most effective venue. Advocates and clients should attempt to secure a policy requiring ConPlan-related public hearings to be held at locations easy for people to get to and in facilities where people will feel most at ease. Advocates may suggest school halls, church basements, or community recreation centers in low-income neighborhoods.

The statute also requires public hearings to be held only after the public has been given adequate notice.^{[104/](#)} Responding to problems identified by the LALSHAC Working Group, the regulations now warn that small-print notices in the legal section of newspapers only a few days before the hearing are not adequate. The regulations consider two weeks as adequate.^{[105/](#)} Beyond this, the regulations leave it up to jurisdictions to fashion suitable notice features. Advocates should work with clients on giving adequate notices (e.g., display ads in regular nonlegal sections of newspapers; notices in neighborhood newspapers, newspapers in other languages, and newspapers for various races and ethnic groups; public service announcements on radio and television; mailing lists that notify anyone who asks to be listed; noticed about other ConPlan events such as advisory committee meetings or the availability of the standard ConPlan documents).

Advocates are urged to consider the audience of public hearings. Far too often staff of the jurisdiction (and sometimes the volunteers of a community advisory committee) are those to whom clients address their comments at a public hearing. The effectiveness of hearings is diminished greatly when elected officials are not present. Elected officials are they who

will feel pressure to abide by the needs and priorities of clients. To help clients effectively advocates should consider securing language in the citizen-participation plan that requires public hearings to be conducted by elected officials. *p191*

Footnotes

/1/Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C Secs. 601 et seq.

/2/The Housing and Community Development Act of 1974 (tit. I), 42 U.S.C. Secs. 5301 et seq. The Community Development Block Grant Program (CDBG) is administered by the Community Planning and Development Office (CPD) of the U.S. Department of Housing and Urban Development (HUD).

/3/42 U.S.C. Sec. 12701. The Act is also known as the Cranston-Gonzalez Act.

/4/National Affordable Housing Act of 1990 (NAHA) (tit. II), 42 U.S.C. Secs. 12721 et seq. NAHA is also known as the Cranston-Gonzalez National Affordable Housing Act.

/5/Id. (tit. I), 42 U.S.C. Sec. 12701.

/6/Stewart B. McKinney Homeless Assistance Act of 1987 (tit. IV), 42 U.S.C. SECS. 11301 et seq.

/7/NAHA (tit. VIII, subtitle D), 42 U.S.C. SEC. 12901.

/8/42 U.S.C. Secs. 5301(c), 5304(b)(3) (for CDBG); 42 U.S.C. Sec. 12744 (for the Home Investment Partnership Program (HOME)).

/9/The laws authorizing CDBG and HOME use different terminology. CDBG defines "moderate income" as 80 percent of the areawide median income and "low" income as 50 percent of the areawide median income (42 U.S.C. Sec. 5302(a)). HOME and the Comprehensive Housing Affordability Strategy statute define this same 80 percent of the areawide median income as "low income," while defining 50 percent as "very low" (42 U.S.C. Sec. 12704).

/10/E.g., 80 percent of the fiscal year 1998 areawide median income for the Rochester, New York, area is \$39,050 for a four-person household. In Hartford, Connecticut, the surrounding suburbs are so wealthy (the areawide median income is \$58,900) that 80 percent is not used-HUD caps the income threshold at \$45,300, the national median income. Consequently the City of Hartford, which has a high incidence of poverty, could spend most of its CDBG and HOME on activities that serve people with incomes at \$45,300 and still comply with the law.

/11/42 U.S.C. Secs. 5306(b), 12747(b); 24 C.F.R. Sec. 92.50(c).

/12/42 U.S.C. SEC. 12705(b)(6); 24 C.F.R. Sec. 91.220(b)(2) (for entitlements), Sec. 91.320(b)(2) (for states).

/13/"CPD" money is shorthand for the four-primary funding programs administered by HUD's Office of Community Planning and Development: CDBG, HOME, the McKinney Emergency Shelter Grant program, and Housing Opportunities for Persons with AIDS.

/14/42 U.S.C. Sec. 5305(a)(8); 24 C.F.R. Sec. 570.201(e) (for entitlements), Sec. 570.482(d) (for states).

/15/24 C.F.R. Sec. 570.204(b)(2) (for entitlements), Sec. 570.482(d)(2)-(3) (for states).

/16/42 U.S.C. Sec. 5305(c)(1)(C); 24 C.F.R. Sec. 570.208(a)(4) (for entitlements), Sec. 570.483(b)(4) (for states).

/17/42 U.S.C. Sec. 12705(b)(1)-(2).

/18/Id. Sec. 5304(c)(1).

/19/Id. Sec. 5304(b)(4).

/20/Id. Sec. 12705(b)(1).

/21/24 C.F.R. Sec. 91.205(b) (for entitlement localities), Sec. 91.305(b) (for states).

/22/Income levels: 0 percent-30 percent of median (extremely low income); 31 percent-50 percent of median (low income); 51 percent-80 percent of median (moderate income); and 81 percent-95 percent of median (middle income).

/23/Tenure types are renters and owners.

/24/Household types are elderly households, single people, and large households.

/25/The regulation goes on to define "disproportionately greater need" as when the percentage of persons in a category of need who are members of a particular race or ethnic group is at least ten percentage points higher than the percentage of persons in the category as a whole. (24 C.F.R. Sec. 91.205(b)(2) (for entitlements), Sec. 91.305(b)(3) (for states)).

/26/42 U.S.C. Sec. 12705(b)(16); 24 C.F.R. Sec. 91.205(e) (for entitlements), Sec. 92.305(e) (for states).

/27/42 U.S.C. Sec. 12705(b)(2); 24 C.F.R. SEC. 91.205(c) (for entitlements), Sec. 305(c) (for states).

/28/HUD's Table 1, Homeless Populations and Subpopulations, specifies subpopulations of people with severe mental illness, alcohol/other drug abuse problems, people suffering from domestic violence, and people with AIDS-related diseases.

/29/24 C.F.R. Sec. 91.205(d) (for entitlements), Sec. 91.305(d) (for states). The categories of "special needs" populations mentioned in the regulations are elderly, frail elderly, persons with disabilities (whether mental, physical, or developmental), people with alcohol or other drug addictions, persons with HIV/AIDS and their families, public housing residents, and any others that the jurisdiction cares to include.

/30/E.g., a few years ago an urban county failed to present information by the income category of "extremely low income." Consequently discerning the housing needs of people in that category (the income category that most closely reflects the legal services client population) relative to those at 50 percent or 80 percent of the median was very difficult.

/31/42 U.S.C. Sec. 12705(b)(7)

/32/Id.42 U.S.C. Sec. 12705(b)(8)

/33/The Loose Association of Legal Services Housing Advocates and Clients is an informal network of experienced housing advocates and clients concerned with improving the housing conditions of poor people.

/34/24 C.F.R. Sec. 91.215(a)(1) (for entitlements), Sec. 91.315(a)(1) (for states).

/35/Id. Sec. 91.215(a)(2) (for entitlements), Sec. 91.315(a)(2) (for states).

/36/Id. Sec. 91.215(a)(4) (for entitlements), Sec. 91.315(a)(4) (for states).

/37/Id. Sec. 91.215(b)(1) (for entitlements), Sec. 91.315(b)(1) (for states).

/38/Id. Sec. 91.215(a)(2), (b) (for entitlements); Sec. 91.315(a)(2), (b) (for states).

/39/Id. Sec. 91.215(e)(1) (for entitlements only, based on the CDBG statute at 42 U.S.C. Sec. 5304(m)(1)).

/40/To get a copy of the formula and table, call me at 202.342.0519.

/41/42 U.S.C. Sec. 12705(b)(7)-(8); Housing and Community Development Act of 1992, Sec. 220(c).

/42/For a selected list of quotes, ask for my Highlights of HUD's Grants Management System Notebook (Feb. 1998) (seven-page letter on Center for Community Change letterhead).

/43/U.S. DEPT OF HOUSING & URBAN DEV., GRANTS MANAGEMENT SYSTEMS POLICY NOTEBOOK ch. 6 at 3 (Jan. 22, 1998).

/44/Housing and Community Development Act of 1992, Sec. 220(b)(3) [Public Law 102-550, 106 Stat. 3672].

/45/Id.

/46/24 C.F.R. Sec. 91.500(b)(2).

/47/42 U.S.C. Sec. 12705(b)(17) (note that due to drafting errors there are two subparagraphs 17).

/48/24 C.F.R. Sec. 91.215(h) (for entitlements), Sec. 91.315(h) (for states).

/49/Id. Sec. 91.225 (for entitlements), Sec. 91.325 (for states).

/50/Id. Sec. 91.500 (b)(3), Sec. 91.225(a)(6) (for entitlements), Sec. 91.325(a)(6) (for states).

/51/Id. Sec. 91.225(b)(1) (for entitlements), Sec. 91.325(b)(1) (for states).

/52/12 U.S.C. 1701u.

/53/24 C.F.R. Sec. 91.225(a)(8) (for entitlements), Sec. 91.325(a)(8) (for states).

/54/Id. Sec. 91.225(a)(1) (for entitlements), Sec. 91.325(a)(1) (for states).

/55/42 U.S.C. Sec. 12706.

/56/24 C.F.R. Sec. 91.510(c).

/57/As mentioned in id. Sec. 91.215(a)(4)-(5) (for entitlements), Sec. 91.315(a)(4)-(5) (for states).

/58/42 U.S.C. Sec. 5304(c); 24 C.F.R. Sec. 225(b)(3) (for entitlements) (the state regulations are silent).

/59/24 C.F.R. Sec. 570.903(b) (for entitlements).

/60/Id.

/61/Id.

/62/Id.

/63/60 Fed. Reg. 56900 (Nov. 9, 1995).

/64/42 U.S.C. Sec. 12705(a).

/65/Id. Sec. 12705(c)(1).

/66/24 C.F.R. Sec. 91.500(b).

/67/42 U.S.C. Sec. 5304(a)(2)-(3).

/68/Id. Sec. 5304(a)(2).

/69/Id. Sec. 5304(a)(3)(A).

/70/24 C.F.R. Sec. 91.105(a)(2) (for entitlements), Sec. 91.115(a)(2) (for states).

/71/42 U.S.C. Secs. 5304(a)(2)(C), 12707(a)(3); 24 C.F.R. Sec. 91.105(e)(1) (for entitlements), Sec. 91.115(b)(3) (for states).

/72/42 U.S.C. Sec. 5304(a)(3)(A); 24 C.F.R. Sec. 91.105(a)(2) (for entitlements), Sec. 91.115(a)(2) (for states).

/73/42 U.S.C. Secs. 5304(a)(2)(E), 12707(c).

/74/Id.4 Secs. 5304(a)(2)(B), 12707(a)(2).

/75/24 C.F.R. Sec. 91.105(b)(2) (for entitlements), Sec. 91.115(b)(2) (for states).

/76/Id. Sec. 91.105(b)(2) (for entitlements), Sec. 91.115(b)(2) (for states).

/77/Id. Sec. 91.105(b)(4) (for entitlements), Sec. 91.115(b)(4) (for states).

/78/42 U.S.C. Sec. 5304(a)(3)(D).

/79/24 C.F.R. Sec. 91.105(b)(3).

/80/42 U.S.C. Sec. 5304(a)(3)(D); 24 C.F.R. SEC. 91.105(e)(2) (for entitlements).

/81/24 C.F.R. Sec. 91.105(g) (for entitlements), Sec. 91.115(f) (for states).

/82/42 U.S.C. Sec. 5304(e) and currently in regulations s at 24 C.F.R. Sec. 91.520.

/83/42 U.S.C. Sec. 12708(a)(1).

/84/Id. Secs. 5304(e), 12707(b); 24 C.F.R. Sec. 19.105(g) (for entitlements), Sec. 19.115(f) (for states).

/85/42 U.S.C. Secs. 5304(a)(2)(B), 5304(e), 12707(b); 24 C.F.R. Sec. 91.105(d)(1) (for entitlements), Sec. 91.115(d)(1).

/86/42 U.S.C. Sec. 5304(a)(3)(D).

/87/24 C.F.R. Sec. 91.105(e)(1) (for entitlements) (state regulations are silent).

/88/ HUD Memorandum from Joseph F. Smith to CPD Field Office Directors (Dec. 5, 1996).

/89/ HUD Memorandum from Saul Ramirez to CPD Field Directors and Consolidated Plan Entitlement Grantees (Feb. 18, 1998). The four report forms are CDBG Summary of Activities (C04PR03), CDBG Financial Summary Report (no code at writing), Consolidated Annual Performance and Evaluation Report (C04PR06), and Summary of Accomplishments (C04PR23).

/90/24 C.F.R. Sec. 91.525, .520, .525.

/91/GRANTS MANAGEMENT SYSTEMS POLICY NOTEBOOK, supra note 43, ch. 5 at 8.

/92/42 U.S.C. Secs. 5304(a)(2)(E), 12707(b)-(c); 24 C.F.R. Sec. 91.105(c)(2)-(3) (for entitlements), Sec. 91.115(c)(2)-(3) (for states).

/93/42 U.S.C. Sec. 5304(a)(2)(E); 24 C.F.R. Sec. 91.105(c)(1) (for entitlements).

/94/Formerly 24 C.F.R. Sec. 570.305(a).

/95/42 U.S.C. Sec. 5304(a)(3)(A).

/96/24 C.F.R. Sec. 91.105(a)(2) (for entitlements), Sec. 91.115(a)(2) (for states).

/97/Id. Sec. 91.105(a)(3) (for entitlements), Sec. 91.115(a)(3) (for states).

/98/For a copy of a "model" public participation plan, or for a checklist of required features, contact me at 202.342.0567 or at gramliche@commchange.org.

/99/42 U.S.C. Sec. 5304(a)(2).

/100/Id. Secs. 5304(a)(2)(D) 5304(a)(3)(B), 12707(a)(4); 24 C.F.R. Sec. 91.105(h) (for entitlements), Sec. 91.115(g) (for states).

/101/24 C.F.R. Sec. 91.105(g) (for entitlements), Sec. 91.115(f) (for states). The term "standard" documents includes the Consolidated Plan (whether the long-term Strategic Plan or the Annual Action Plan); a proposed Consolidated Plan; proposed and final "Substantial" Amendments; the Annual Performance Report; the Antidisplacement Plan;

the Citizen Participation Plan; and the Fair Housing Analysis of Impediments, plus the Fair Housing Action Plan.

/102/24 C.F.R. Sec. 91.105(b)(2) (for entitlements), Sec. 91.115(b)(2) (for states).

/103/42 U.S.C. Sec. 5304(a)(3)(D); 24 C.F.R. Sec. 91.105(e)(3) (for entitlements), Sec. 91.115(b)(3)(ii) (for states).

/104/42 U.S.C. Sec. 5304(a)(3)(D).

/105/24 C.F.R. Sec. 91.105(e)(2) (for entitlements), Sec. 91.115(b)(3)(i) (for states).

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