

# **THE CITIZEN PARTICIPATION PLAN FOR THE NORTH DAKOTA CONSOLIDATED PLAN AND ANNUAL PERFORMANCE REPORT**

**April 2020 – Amended per CARES Act (COVID-19)**

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**ALTERNATIVE FORMATS ARE AVAILABLE UPON REQUEST**

## **PURPOSE**

In 1994, the US Department of Housing and Urban Development issued new rules consolidating the planning, application, reporting, and citizen participation processes of four formula grant programs: Community Development Block Grants (CDBG), Home Investment Partnerships (HOME), Housing Trust Fund (HTF), Emergency Solutions Grants (ESG) and Housing Opportunities for Persons with AIDS (HOPWA). The new planning process was intended to more comprehensively fulfill three basic goals: to provide decent housing, to provide a suitable living environment and to expand economic opportunities.

The Consolidated Plan is actually a three-part planning process required by HUD. It comprises developing a five-year strategic plan, preparing annual action plans and submitting annual performance reports. These three parts are intended to furnish the framework whereby North Dakota can identify its housing, homeless, community, and economic development needs, identify resources that will be tapped and actions to be taken to address the needs, as well as look back and evaluate the state's progress toward achieving its strategic goals. Completing these documents on time and in a manner that is acceptable to HUD ensures program funding.

The precursor to the Consolidated Plan is the Citizen Participation Plan (CPP). The objectives of the CPP are to ensure that the citizens of North Dakota, particularly persons of low and moderate income, persons living in slum and blight areas, units of local government, housing agencies and other interested parties, are provided with the opportunity to participate in the planning and preparation of the Consolidated Plan, including amendments to the Consolidated Plan and the Annual Performance Report. In doing so, the CPP sets forth general policies and procedures for implementing and carrying out the consolidated planning process, such as how the Consolidated Plan will be developed, dates and milestones along which the process will proceed and methods for citizens to offer the state assistance and guidance in the formulation of the Plan. Furthermore, the provisions of the CPP fulfill statutory and regulatory requirements for citizen participation specified in the U.S. Department of Housing and Urban Development's rules for the Consolidated Plan, the HOME Investment Partnerships (HOME) Program, the Community Development Block Grant (CDBG) Program, the Housing Trust Fund (HTF), the Emergency Solutions Grants (ESG) Program and the Housing Opportunities for Persons with AIDS (HOPWA) Program. In North Dakota, the North Dakota Department of Commerce, Division of Community Services (DCS) is the lead agency for developing, implementing, monitoring, and reporting on the achievements of the Consolidated Plan. The Division administers CDBG, HTF, ESG, HOME and new funding that may become available. HOPWA funds are administered by Tri-State HELP (Housing Environment for Living Positively).

The Consolidated Plan identifies the housing and community development needs of the State of North Dakota and sets priorities for spending the HUD grant funds. Public comment is a vital component of identifying the state's housing and community development needs and spending priorities. The Consolidated Plan offers the opportunity for strategic statewide planning to occur alongside citizen participation.

## **COMMENT ON THE CITIZEN PARTICIPATION PLAN AND AMENDMENTS**

North Dakota Department of Commerce will receive comments on the proposed Citizen Participation Plan during a 5-day comment period. In the event that there are substantial amendments to this Citizen Participation Plan, an additional comment period of at least 5 days will be allotted. This proposed Citizen Participation Plan (and, if necessary, the substantially amended Citizen Participation Plan) will be made available to the public before the 5-day comment period begins.

Individuals who require accommodations, including appropriate auxiliary aids, translated documents or interpreters to participate in a public hearing, or who would like to request a copy of the proposed Citizen Participation Plan, or another document, in an alternate format, should contact the ND Department of Commerce's Section 504 Coordinator, Tonya Forderer via email at [dcs@nd.gov](mailto:dcs@nd.gov) or by calling 701-328-5300, TTY: 800-366-6888, Spanish TTY: 800-435-8590 or Relay ND Voice: 800-366-6889.

## **ENCOURAGEMENT OF CITIZEN PARTICIPATION**

The Consolidated Plan is designed to enumerate North Dakota's overall strategy for coordinating federal and other housing and community development resources to provide decent housing, establish and maintain a suitable living environment, and expand economic opportunities, particularly for low and moderate-income persons.

Interested groups and individuals are encouraged to provide input into all aspects of North Dakota's consolidated planning activities, from assessing needs to setting priorities through performance evaluation. By following the CPP, there will be numerous opportunities for citizens to contribute information, ideas and opinions about ways to improve our neighborhoods, promote housing affordability and enhance the delivery of public services to local residents.

Affirmative efforts to encourage and solicit participation from the state's residents and populations least likely to have awareness of HUD-funded programs and processes including low-income residents, individuals with disabilities, racial and ethnic minorities, and female-headed households shall include posting Notifications on the DCS website.

## **LIMITED ENGLISH PROFICIENT PERSONS AND THE LANGUAGE ACCESS PLAN**

The State of North Dakota will make every effort to ensure that Limited English Proficient (LEP) persons have meaningful access to federally funded programs and services as is required under Title VI of the Civil Rights Act of 1964.

The State of North Dakota has a diverse population where many languages are spoken. A substantial number of persons that speak these languages do not speak English or do not speak English very well and are considered Limited English Proficient (LEP).

Regardless of which language a person speaks or their ability to speak English, the State of North Dakota will make every effort to ensure that they have meaningful access to federal funding services through either oral interpretation or written translations of vital documents.

Since the State of North Dakota has a number of LEP persons, all countywide public notices and public hearings must ensure that language services are provided or available. For example, each year the public notice for the Annual Action Plan will be printed in various languages and translation services will be provided as necessary for the public hearing.

However, many programs and services delivered within the State of North Dakota, including those carried out by participating cities, have distinct service areas and, as such, an assessment must be made by each agency administering the activity to determine which language services should be provided based on the identified LEP population in the service area.

To assist participating agencies, the State of North Dakota has developed a bulletin instructing them to conduct the four-factor analysis and develop their own Language Access Plan (LAP) to ensure that LEP persons have meaningful access to their federally funded programs and services. The state will also provide technical assistance to assist the agencies in conducting the four-factor analysis and in developing their Language Access Plans.

The four-factor analysis is as follows:

**Factor 1:** Determine the number or proportion of LEP persons served or encountered in the eligible service area.

**Factor 2:** Determine the frequency with which LEP persons come in contact with the program.

**Factor 3:** Determine the importance of the information, services, program, or the activity to people's lives.

**Factor 4:** Assess costs versus resources and benefits in providing language services.

The State of North Dakota is confident that no person will be denied federally funded services based on their ability to speak English.

The State of North Dakota is committed to keeping all interested groups and individuals informed of each phase of the consolidated planning process and of activities being proposed or undertaken under HUD formula grant programs. Opportunities to comment on or participate in planning community development and affordable housing activities and projects will be publicized and disseminated throughout the state.

## **PUBLIC HEARINGS**

Public hearings will not be held; however, public comments will be accepted via email at [dcs@nd.gov](mailto:dcs@nd.gov) or by calling 701-328-5300, TTY: 800-366-6888, Spanish TTY: 800-435-8590 or Relay ND Voice: 800-366-6889.

A summary of the written and oral public comments received will be considered for the Consolidated Plan.

## **PUBLICATION OF CONSOLIDATED PLAN DOCUMENTS**

The state will publish the draft Consolidated Plan or Annual Action Plan for public review in a manner that affords citizens, public agencies and other interested parties a reasonable opportunity to examine its contents and submit comments. The Draft Plan will be a complete document and shall include:

- The amount of assistance the state agencies expect to receive, and
- The range of activities that may be undertaken, including the estimated amount that will benefit persons of low and moderate income.

A notice for the release of the Amended Plan will be published on the North Dakota Department of Commerce, Division of Community Services' website at <http://www.communityservices.nd.gov> at the beginning of the public comment period.

Citizens and groups may obtain a reasonable number of free copies of the proposed Consolidated Plan by contacting the Department of Commerce's Section 504 Coordinator, Tonya Forderer via email at [dcs@nd.gov](mailto:dcs@nd.gov) or by calling 701-328-5300, TTY: 800-366-6888, Spanish TTY: 800-435-8590 or Relay ND Voice: 800-366-6889.

## **PUBLIC COMMENTS ON THE DRAFT CONSOLIDATED PLAN AND ANNUAL ACTION PLANS**

Public comment to gather input from citizens regarding proposed changes. Written comments and citizen participation by low and moderate-income individuals, minorities, non-English speaking persons and persons with disabilities will be encouraged through the affirmative efforts outlined in the Encouragement of Citizen Participation section on page 2.

The proposed Consolidated Plan will be made available to interested parties for a comment period no less than 5 days.

## **PUBLIC OUTREACH**

An informed citizenry is critical to effective and responsive housing and community development programs. Efforts to educate residents and empower their participation are an ongoing element of the consolidated planning process.

Public education and outreach will be facilitated through the use of public advertisement that describe the consolidated planning process, opportunities for citizen participation and available funding through the CDBG, HTF, ESG, and HOME programs.

## **TECHNICAL ASSISTANCE**

Groups or individuals interested in obtaining technical assistance to develop project proposals or applying for funding assistance through HUD formula grant programs covered by the Consolidated Plan or Annual Action Plan may contact the staff of the North Dakota Department of Commerce, Division of Community Services. Such assistance may be of particular use to

community development organizations, nonprofit service providers, and for-profit and nonprofit housing development groups that serve or represent persons of low and moderate income.

## **SUBSTANTIAL AMENDMENT CRITERIA FOR THE CONSOLIDATED PLAN**

The following will constitute a substantial amendment to the Consolidated Plan:

1. A change in the method of distribution or grant selection criteria.
2. The addition of an activity not initially identified in the Consolidated Plan.
3. Funding of an activity not identified in the Consolidated Plan as a high or medium priority.

## **ADMINISTRATIVE AMENDMENTS**

Administrative amendments are those that are not considered substantial in nature and pertain chiefly to minor administrative modifications of the programs. Thus, they do not require in-depth citizen participation.

## **CITIZEN PARTICIPATION IN THE EVENT OF A SUBSTANTIAL AMENDMENT**

In the event of a substantial amendment to the Consolidated Plan, the Community Services Division, depending on the nature of the amendment, will allow for an additional 5 day comment period, where the proposed substantially amended Consolidated Plan will be made available to interested parties.

Citizens will be notified of the substantially amended Consolidated Plan's availability on the North Dakota Department of Commerce, Division of Community Services' website at <http://www.communityservices.nd.gov> for the full public comment period.

## **CONSIDERATION OF PUBLIC COMMENTS ON THE SUBSTANTIALLY AMENDED PLAN**

In the event of substantial amendments to the Consolidated Plan, the state will openly consider any comments on the substantially amended Consolidated Plan from individuals or groups. Comments must be received in writing or by contacting the Department of Commerce's Section 504 Coordinator, Tonya Forderer via email at [dcs@nd.gov](mailto:dcs@nd.gov) or by calling 701-328-5300, TTY: 800-366-6888, Spanish TTY: 800-435-8590 or Relay ND Voice: 800-366-6889.

A summary of the written and oral comments on the substantial amendments will be included in the amended Consolidated Plan. The final Consolidated Plan will also include a summary of all comments not accepted and their reasons for dismissal.

## **AMENDMENT CRITERIA FOR THE CDBG PROGRAM DISTRIBUTION STATEMENT**

### **Amendments to Program Statement Affecting the Action Plan of the Consolidated Plan as stated in the Citizen Participation Plan for the North Dakota Consolidated Plan and Annual Performance Report.**

The following information must be submitted to DCS when amending Regional Program Statements:

1. The Regional Council Board or its designated committee must approve amendments to the Regional Program Statement prior to notifying cities, counties and other interested parties.
2. Amendments must be posted to the Regional Councils individual websites to allow cities, counties and other interested parties in the region to comment in writing or orally to allow for 5 day comment period. The written notice should be sent in letter or memo form by email.
3. A copy of the notification must be submitted to the DCS **within 10 working days of the date of the notification**, along with a copy of the board approval and the minutes approving the amendment. **The 5-day comment period must be completed by the application/amendment deadline as stated in the most current Program Distribution Statement.**
4. Upon receipt of the intended change, DCS will forward a copy of all changes to HUD.
5. Changes to the Regional Program Statement cannot be implemented prior to the 5-day process.

What constitutes an amendment to the Action Plan? (the following are examples, but the list is not inclusive)

1. Changes to initially established grant selection criteria.
2. Funding of activities not initially identified in the annual Action Plan.
3. Funding of an activity not identified in the Plan as a high or medium priority.

### **Amendments to Regional Program Statement for the CDBG Program as stated in the Citizen Participation Plan for the North Dakota Consolidated Plan and Annual Performance Report.**

The following information must be submitted to the DCS when amending Regional Program Statements:

1. The Regional Council Board or its designated committee must approve amendments to the Regional Program Statement prior to notifying cities, counties and other interested parties.

2. Amendments must be posted to the Regional Councils individual websites to allow cities, counties and other interested parties in the region to comment in writing or orally to allow for 5 day comment period. The written notice should be sent in letter or memo form by email.
3. Changes to the Regional Program Statement cannot be implemented prior to notifying cities, counties and other interested parties.
4. A copy of the notification must be submitted to the DCS **within 10 working days of the date of the notification**, along with a copy of the board approval and the minutes approving the amendment. **The 5 day comment period must be completed by the application/amendment deadline as stated in the most current Program Distribution Statement.**

What constitutes an amendment to the CDBG Program? (the following are examples, but the list is not inclusive)

1. Transferring money from one emphasis area to another.
2. Modifications to deadline dates.

**EXCEPTION:**

**Transfers without Notice**

1. After scoring and ranking has occurred, transfers between funding categories that are \$20,000 and less can be made without public notice.
2. If a balance remains in a funding category, and not all applications received for that category were funded, an explanation must be provided why the applicant(s) were not offered the balance of the funds remaining.
3. Transfers without notice will be limited to two transfers per year.
4. The DCS must be notified of all transfers in writing within 10 days of the Board decision, along with a copy of the board approval and the minutes approving the transfer.

NOTE: This policy applies to allocation funds only. Revolving Loan funds can only be used for Economic Development projects.

**AMENDMENT CRITERIA FOR THE HOME PROGRAM DISTRIBUTION STATEMENT**

The state may reallocate funds from one category to another, or one recipient or subrecipient to another, because of high demand, an emergency due to a natural disaster, or determinations that performance-based measures have not been met.

State program income, repayments, and recaptured funds received by DCS will be allocated, at our discretion, for any project or activity, in the proceeding program year and committed before any HOME funds are drawn from the Treasury account, except for the funds in the Treasury account that are required to be reserved, in accordance with the HUD Interim Final Rule for the HOME program published 12/2/2016 and 24 CFR Part 92.503.

The approval of applications for CHDOs and non-and-for-profit developers will be a competitive process. If CHDO reserve funds remain, the DCS may at its discretion, open a second competitive round of applications to be accepted from CHDOs only.

## **CHANGES IN FEDERAL FUNDING LEVEL**

Any changes in federal funding level after the Consolidated Plan and Annual Action Plan's draft comment period has expired and the resulting effect on the distribution of funds will not be considered an amendment or a substantial amendment.

## **ANNUAL PERFORMANCE REPORTS**

Performance reports on CDBG, HOME, HTF, and ESG programs covered by the Consolidated Plan or Annual Action Plan are to be prepared by the North Dakota Department of Commerce, Division of Community Services within 90 days after the end of each program year. Draft performance reports will be made available upon written request. The draft performance report will be available for comment for no less than 5 days, and any public comments received in writing will be reported in an addendum to the final performance report.

## **ACCESS TO RECORDS**

To the extent allowed by law, interested citizens and organizations shall be afforded reasonable and timely access to records covering the preparation of the Consolidated Plan or Annual Action Plan, project evaluation and selection, HUD's comments on the Plan and annual performance reports. In addition, materials on formula grant programs covered by the Consolidated Plan or Annual Action Plan, including activities undertaken in the previous five years, will be made available to any member of the public who requests information. A complete file of citizen comments will also be available for review by interested parties.

## **COMPLAINTS AND GRIEVANCES**

Citizens, administering agencies and other interested parties may submit complaints and grievances regarding the programs the North Dakota Department of Commerce, Division of Community Services administers. Complaints should be in writing, specific in their subject matter, and include facts to support allegations. The following are considered to constitute complaints to which a response is due:

- The administering agency has purportedly violated a provision of the Citizen Participation Plan;
- The administering agency has purportedly violated a provision of federal CDBG, ESG, HTF, or HOME program regulations; and

- The administering agency, or any of its contractors, has purportedly engaged in questionable practices resulting in waste, fraud or mismanagement of any program funds.

Residents may also present complaints and grievances orally by phone or in writing by email by contacting the Department of Commerce's Section 504 Coordinator, Tonya Forderer via email at [dcs@nd.gov](mailto:dcs@nd.gov) or by calling 701-328-5300, TTY: 800-366-6888, Spanish TTY: 800-435-8590 or Relay ND Voice: 800-366-6889.

All public comments, including complaints and grievances, made either orally or in writing within the 5 day public comment period, will be included in the final Consolidated Plan or Annual Action Plan. Such complaints or grievances for CDBG, HOME, HTF, or ESG shall be directed to the Consolidated Plan representative at the Community Services Division.

### **TIMELY RESPONSE TO COMPLAINTS OR GRIEVANCES**

Upon receipt of a written complaint, the designated representative at Community Services Division shall respond to the complainant within a timely manner and maintain a copy of all related correspondence, which will be subject to review.

Within a timely manner of receiving the complaint, the designated representative shall discuss the matter with the department manager and respond to the complainant in writing. A copy of the Community Services Division response will be transmitted, concurrently, to the complainant and to the division directors. If, due to unusual circumstances, the designated representative finds that he/she is unable to meet the prescribed time limit, the limit may be extended by written notice to the complainant. The designated representative's notice must include the reason for the extension and the date on which a response is expected to be generated, which may be based on the nature and complexity of the complaint.

Public review materials and performance reports will include data, as appropriate under confidentiality regulations, on any written complaints received and how each was resolved.

### **ACTIVITIES EXEMPT FROM SUBSTANTIAL AMENDMENT CITIZEN PARTICIPATION REQUIREMENTS**

#### **URGENT NEEDS**

It may be necessary to amend the Consolidated Plan or Annual Action Plan in the event of an emergency such as a natural disaster. These amendments may include funding new activities and/or the reprogramming of funds including canceling activities to meet community development needs that have a particular urgency. Therefore, the State of North Dakota may utilize its HOME or CDBG funds to meet an urgent need without the normal public comment period, which is otherwise required for substantial amendments.

To comply with the national objective of meeting community development needs having a particular urgency, an activity will alleviate existing conditions that the State of North Dakota certifies:

- Pose a serious and immediate threat to the health and welfare of the community;
- Are of recent origin or recently became urgent;
- The state is unable to finance the activity on its own; or
- Other resources of funding are not available to carry out the activity.

A condition will generally be considered to be of recent origin if it is developed or became critical within 18 months preceding the Community Services Division's certification.

#### **AVAILABILITY OF THE CITIZEN PARTICIPATION PLAN (CPP)**

Citizens and groups may obtain a reasonable number of free copies of the proposed CPP by contacting the Department of Commerce's Section 504 Coordinator, Tonya Forderer via email at [dcs@nd.gov](mailto:dcs@nd.gov) or by calling 701-328-5300, TTY: 800-366-6888, Spanish TTY: 800-435-8590 or Relay ND Voice: 800-366-6889.