

Citizen Participation Requirements in the CDBG Grantee Performance Report

October 19, 1993

MEMORANDUM FOR: Burton Bloomberg, Deputy Regional Administrator-
Regional Housing Commissioner, 2S

ATTENTION: Joan T. Dabelko, Director, Office of
Community Planning and Development, 2C

FROM: Sylvester Angel, Acting Deputy Assistant Secretary
for Grant Programs, CG

**SUBJECT: Community Development Block Grant (CDBG) Program
Grantee Performance Report (GPR) - Citizen Participation Requirements
City of New York, New York**

This is in response to Ms. Joan T. Dabelko's memorandum of September 16, 1993, to James R. Broughman, Director of the Entitlement Communities Division, requesting guidance on the standards for public review of a grantee's performance under the CDBG program.

Ms. Dabelko's memorandum indicates that the New York Regional Office is in receipt of a copy of a letter dated May 27, 1993, that was sent by a citizen to the City of New York. The letter was also read by the citizen as testimony at the public hearing on the City's CDBG performance that was held on that same date. The letter raises concerns about the information provided by the City in its "CD XVIII" (Program Year 1992) GPR. A summary of these citizen comments was not included in the 1992 GPR because the GPR had already been submitted to the Department of Housing and Urban Development (HUD) on March 31, 1993. While the performance hearing was not held until after the GPR was submitted, the City had provided other opportunities for citizen comment on the GPR prior to its submission to HUD. On March 17, 1993, New York City had issued a public notice advising citizens that the GPR would be available for review between March 24 and March 26, 1993, during regular business hours. The Regional Office requests guidance as to whether such a process complies with the required certification that the City is following a detailed citizen participation plan which, in part, provides for a public hearing to review program performance.

In addressing this issue, it is important first to note that there are two separate statutory requirements relating to the citizens' role in the review of performance under local CDBG programs. Pursuant to Section 104(a)(3) of the Housing and Community Development Act of 1974, as amended, each grantee under the CDBG program must certify that it is following a detailed citizen participation plan which provides for a variety of required elements. In regard to public hearings specifically, the Act requires that a grantee's citizen participation plan must provide for "public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance

...." It should be noted that this provision does not specify that the public hearing covering a "review of program performance" must be directly linked to the submission of the grantee's GPR. The separate requirement at 24 CFR 570.507(a)(3) specifically relating to citizen comments on the GPR itself is based on another statutory requirement found at Section 104(e) of the Act. Pursuant to that section of the Act, each grantee is required to make copies of its GPR available to its citizens in sufficient time to permit the citizens to comment on the report prior to its submission to HUD, in such manner and at such times as the grantee may determine. The process through which the grantee will meet this requirement should also be delineated in the community's citizen participation plan. Such discussion is an integral part of fulfilling the requirement at Section 104(a)(3)(B) of the Act that the grantee's citizen participation plan "provides citizens with reasonable and timely access to ... records relating to the ... actual use of funds" under the CDBG program.

As can be seen from the above discussion, the fact that New York City did not hold a public hearing before submitting its GPR to HUD is not necessarily evidence of noncompliance with the CDBG regulations or required certifications. Any assessment of whether the City is in compliance with the requirements for public review of a grantee's performance under the CDBG program must focus on the City's citizen participation plan. If you have not already done so, the Regional Office should first review the City's citizen participation plan to determine whether it complies with the certification requirements as delineated in Section 104(a)(3) of the Act. We note that a final rule incorporating these requirements into the CDBG regulations is expected to be published in the near future. However, until such time as a rule is published for effect in this regard, each grantee is free to design its citizen participation processes as it determines to be most appropriate provided that all such processes can be supported by a reasonable interpretation of the statutory requirements. In addition to a review of the City's citizen participation plan document itself, a second and equally important question arises: whether the City is following the plan it has developed as required by the certification. HUD has not made a practice of reviewing a grantee's performance in this area. However, when there is evidence, such as a citizen complaint, that raises a question concerning such performance, it is important that it be pursued. Therefore, it is suggested that your office review for the following:

- Did the grantee follow its citizen participation plan with respect to providing grantees with information on its performance under the CDBG program, including holding at least one public hearing at which this subject was addressed? and,
- Did the grantee make its GPR available to the public in sufficient time to permit citizens to comment on the report prior to its submittal to HUD?

As a final issue, we note that in a telephone conversation with your staff to clarify some of the information contained in the Regional Office's memorandum, the question arose as to whether citizen comments received at a performance hearing held soon after the submission of one year's GPR were required to be included in any GPR. Please note that in accordance with the reporting requirements in the recently revised GPR handbook (HUD Handbook 6510.2 REV-2, issued July 20, 1993), the City must indicate under item 8. of the GPR Cover Page whether or not any "citizen comments about this report and/or the CDBG program" were received. If such comments have been received, the City is required to include a narrative summary of the comments as part of the GPR. Therefore, any citizen comments received at a performance hearing held after the submission of one year's GPR are required to be summarized by the City in a narrative in the next program year's GPR.

If you have any questions concerning this matter, please contact the Entitlement Communities Division at (202) 708-1577.

cc: Robert P. Allen