

## Section 104(d) Public Disclosure Requirements

MEMORANDUM FOR: Sam R. Moseley, Regional Administrator -  
Regional Housing Commissioner, 6S

ATTENTION: R.D. Smith, Regional Director, Office of Community Planning and Development, 6C

FROM: Randall H. Erben, Action Assistance Secretary  
for Community Planning and Development, C

### **SUBJECT: Section 104(d) Public Disclosure Requirements Community Development Block Grant (CDBG) Program**

This is in response to your memorandum of June 17, 1992 in which you request an interpretation of the CDBG regulation at 24 CFR 570.606 (c)(1)(iii) regarding the public disclosure requirements for CDBG-assisted activities that involve the demolition or conversion to another use of low- and moderate-income dwelling units. You requested guidance on acceptable methods for conveying this information, specifically whether this information must be published in a local newspaper.

Section 104(d) of the Housing and Community Development Act of 1974, as amended, which requires the replacement of low- and moderate-income housing units that are demolished or converted to another use in connection with a CDBG-assisted activity, is silent on the grantee's responsibilities for public disclosure of such activities. The above-cited regulation for the Entitlement CDBG program, along with the regulation at 24 CFR 570.496a(c)(1)(iii) for the State CDBG program, state that prior to committing CDBG funds for these activities the recipient must make public and submit to HUD (in the Entitlement program) or to the state (in the State program) a description of the proposed demolition or conversion activity along with its plans for the replacement of these low- and moderate-income housing units that will be lost. The regulations also list what information must be included as part of this public disclosure but do not describe the method or vehicle to be used in disseminating this information. The preamble to this regulation dated July 18, 1990, does, however, provide some insights as to the intent of this rule by stating that the benefits of disclosure should outweigh the limited administrative obligations imposed on the grantee/recipient.

Although previous guidance in a 1991 manual for a HUD training course on the section 104(d) requirements suggested that this disclosure requirement could be met through publication in a local newspaper of general circulation, the Department did not intend to imply that this is the only acceptable method for public disclosure. The purpose of this public disclosure requirements to ensure that the citizens are made aware of the recipient's plans for demolition and conversion of existing low- and moderate-income housing and how it intends to replace those lost dwelling units. The community or state can select the manner in which it desires to accomplish this disclosure requirement as long as the applicable information is made readily available to citizens or organizations most likely to be concerned about the loss of such housing. Examples of adequate public disclosure for such activities include:

- Publishing in a local newspaper a complete project description.

- Publishing in a local newspaper a notice of availability stating where and when a complete project description will be available for review.
- Posting a complete project description in areas of general circulation, such as the community centers or public libraries located throughout a jurisdiction.
- Providing a complete project description via written notification to affected community groups, citizen advisory boards, and developers or organizations in the jurisdiction that are involved in the development of low- and moderate-income housing (including those public and private entities identified in the CHAS).

Regarding the content of the information, the regulations at 570.496a(c)(1)(iii)(A)-(G) and 570.606(c)(1)(iii)(A)-(G) specifically list what must be included in part of the public disclosure process. We share your concern that considerable confusion and inconsistency would result if the grantee were to include some items required for the public disclosure in one format, such as a newspaper notice, but exclude other items, such as the maps, from that same disclosure format. In order not to compromise the intent of this requirement, in those instances where the grantee or recipient community uses more than one format for disclosure of any given activity, all of the information subject to public disclosure, including the required maps, should be available in at least one of those formats. Furthermore, any abbreviated project descriptions must specify where the full description is located and when it is available for review.

If you have any questions on this information, please contact the entitlement communities Division on 202/708-1322.

cc: Linda Marston, SC