

CHAPTER 1: WHAT IS THE CONSOLIDATED PLAN?

The ConPlan could be considered the “master plan” for affordable housing in local communities and states. It is a community-based strategic planning document mandated by federal law and administered through the US Department of Housing and Urban Development (HUD). It is the community’s application to HUD for specific housing funds and is intended by law to be a **long-range planning document** that describes housing needs, market conditions, and housing strategies, including an action plan for the investment of federal housing funds.¹



The ConPlan is prepared by all states and certain local government jurisdictions—and approved by HUD—before these states and local governments can receive specific federal housing and community development funds from the HOME, Community Development Block Grant, Housing Opportunities for People with AIDS, and Emergency Shelter Grant programs.

In order to ensure that people with disabilities get their “fair share” of these federal housing resources, it is critically important that the disability community understands how the ConPlan process works in their community or state, and finds the most effective way to become involved. New federal housing resources targeted toward people with disabilities have declined significantly since 1995, including the Section 811 Supportive Housing Program for Persons with Disabilities. Thus it is important to pursue **all** federal housing programs, including those controlled by the ConPlan, to expand and enhance housing opportunities for people with disabilities.

Built into the ConPlan process are requirements for a substantial level of community input and public participation (these requirements are discussed further in Chapter 2). The law requires that a new ConPlan be prepared at least once every five years (although states and localities are permitted to revise their five-year ConPlan at anytime if housing needs, market conditions, or priorities change). Right now is the ideal time to get involved because most states and many communities across the nation will be **required** to develop a new ConPlan during the year 2000.

WHY SHOULD I CARE ABOUT THE CONPLAN?

The ConPlan is important to the disability community for three main reasons: 1) it controls how federal housing funds will be used to expand affordable housing; 2) it determines who will benefit from these affordable housing activities; and 3) the federal government is making it a key document by linking other HUD housing programs and strategies to it.

The ConPlan is your **best** chance to go on record about the housing crisis facing people with disabilities in your community or state. Most of the resources controlled by the ConPlan are specifically targeted to low-income households, including people with disabilities. People with disabilities are among the lowest income households in the country. The national average income of an individual with a disability receiving Supplemental Security Income (SSI) benefits is only 24 percent of the typical one-person income in the country.² People receiving SSI are too

poor to obtain decent and affordable housing unless they have the type of housing assistance controlled by the ConPlan and other federal housing programs.

Recent legislation and HUD policies have linked other HUD programs to the ConPlan, thus emphasizing its role as the "master" plan. Specifically, HUD has mandated that the ConPlan be linked to two other planning documents—the McKinney Continuum of Care and the new Public Housing Agency Plan. Due to the linkage between these housing plans it is extremely critical that the disability community understand all three plans, the relationships among them, and how they can get involved in their preparation. Chapter 3 provides more details on the other HUD housing plans.

WHO MUST SUBMIT A CONPLAN?

A unit of local government³ that receives any of the following program funding **directly**⁴ from HUD must submit a ConPlan:

- Community Development Block Grant Program (CDBG);
- HOME Investment Partnerships Program (HOME);
- Emergency Shelter Grant (ESG); and/or
- Housing Opportunity for Persons with AIDS (HOPWA).



Every state must also submit a ConPlan. The state ConPlan covers all communities within the state that do not qualify to receive these funds directly from HUD.

At the local level, the planning or community development department is usually responsible for coordinating the preparation of the ConPlan. At the state level, the state's housing agency (it may be called the Department of Community Affairs or Community Development, the state Housing Finance Agency, or the Department of Economic Development) develops the ConPlan.⁵

Not every state or locality that submits a ConPlan receives funding for all four programs listed above. In most cases, however, if a state or locality receives both CDBG and HOME program funds, the same department in the city or state government typically administers them.

WHAT KIND OF RESOURCES ARE CONTROLLED BY THE CONPLAN AND HOW CAN THEY BE USED?



As stated above, the four HUD programs controlled by the ConPlan include the:

1. HOME Program;
2. CDBG;
3. ESG; and
4. HOPWA.⁶

The amount of money that a state or locality receives for each program is determined by a formula based on the amount of funding appropriated by Congress each year. Appendix 1 provides the fiscal year 1999 allocations for each of these four HUD programs.

Decisions about how these four federal housing programs will be used are made during the ConPlan process. At the state and local level, a portion of CDBG funding, and all of the HOME and HOPWA funding, must be spent on affordable housing-related activities, including:

- housing rehabilitation;
- grants and loans for affordable housing development;
- down payments and other assistance to increase homeownership opportunities;
- tenant-based rental assistance (HOME and HOPWA); and
- emergency shelter or services programs for people who are homeless (ESG only).

All of these housing activities can benefit people with disabilities. For example, a portion of HOME program funding can be targeted for a rental assistance program for homeless people with disabilities or for homeownership activities that would benefit people with disabilities. People with disabilities can also benefit from CDBG grants and loans used to develop affordable housing by ensuring that some of the units are affordable and accessible to people receiving SSI benefits.

1. HOME Program

The federal government created the HOME Investment Partnerships Program in 1990.⁷ The HOME program is a formula grant of federal housing funds given to states and localities. During 1999, Congress appropriated \$1.6 billion that was distributed by formula to approximately 500 communities and states.

HOME funds can be used for the following housing activities:

- rental housing production and rehabilitation loans and grants;
- first-time homebuyer assistance;
- rehabilitation loans for homeowners; and
- tenant-based rental assistance (2 year renewable subsidies).

All housing developed with HOME funds must serve low- and very low-income individuals and families. For rental housing, at least 90 percent of HOME funds must benefit families whose incomes are at or below 60 percent of area median income; the remaining 10 percent must benefit families with incomes at or below 80 percent of area median income. (Your state or participating jurisdiction may have even lower income targeting for their HOME funds). 15 percent of a state or locality's HOME funds must be set-aside for use by community based non-profit organizations (called "CHDOs").

2. Community Development Block Grant (CDBG)

The Community Development Block Grant program⁸ is a federal grant provided to "entitlement communities" (typically municipalities with populations over 50,000 and urban counties with populations over 200,000) and to all states. States may use CDBG funds only in "non-entitlement communities," including rural areas.

During 1999, Congress appropriated \$4.75 billion for the CDBG program. At least 70 percent of CDBG funds must be used to benefit low- and moderate-income people by providing decent housing and a suitable living environment, and by expanding economic opportunities. CDBG can be spent on any of the following activities:

- housing rehabilitation (loans and grants to homeowners, landlords, non-profit organizations, developers);
- new housing construction (only if completed by non-profit groups);
- purchasing land and buildings;
- construction of public facilities, such as shelters for the homeless;
- construction of neighborhood service centers or community buildings;
- code enforcement, demolition, and relocation funds for people displaced because of CDBG projects;
- making buildings accessible to the elderly and handicapped; and
- public services (capped at 15 percent of a jurisdiction's CDBG funds) such as vocational services, healthcare, and childcare.

3. Emergency Shelter Grant (ESG)

Created with the authorization of the Stewart B. McKinney Homeless Assistance Act in 1987, the ESG program provides federal grants to states and localities based on the formula used for the CDBG program.⁹ Program funds are awarded to grantees in proportion to their previous year's CDBG allocation (see above). If a locality's allocation does not meet minimum grant standards, its funds are added to their state's allocation. Each year since 1996 HUD has allocated \$115 million in Emergency Shelter Grants. Eligible activities for use of ESG include:

- renovation, major rehabilitation, or conversion of buildings for use as emergency shelter;
- up to 30 percent on essential services for the homeless;
- up to 30 percent on homeless prevention efforts; and
- shelter operating costs, such as maintenance, insurance, utilities, rent, and furnishings (no more than 10 percent for operating staff costs).

4. Housing Opportunities for People with AIDS Program (HOPWA)

HOPWA is a HUD program that funds housing and services for people with AIDS¹⁰. HOPWA is available as a block grant to states and larger metropolitan areas based on the incidences of AIDS in these areas.¹¹ Approximately \$225 million was appropriated for HOPWA in Fiscal Year 1999. Eligible activities under the program include:

- housing information and coordination services;
- acquisition, rehabilitation, and leasing of property;
- project-based or tenant-based rental assistance;
- homeless prevention activities;
- supportive services;
- housing operating costs;
- technical assistance; and/or
- administrative expenses.

WHEN DO CONPLANS NEED TO BE COMPLETED?

Each ConPlan has a "program year" during which the state or locality implements the ConPlan annual one-year action plans. In an effort to better coordinate local planning, HUD allows each state and locality to decide when its program year begins. To find out what the program year and planning schedule is for the ConPlan process in your community, contact your local or state housing or community development officials. Most communities should begin the ConPlan process at least six months prior to the beginning of the new "program year." Given that most localities and states will have new ConPlans approved by HUD during the year 2000, it is particularly important for the disability community to get involved **NOW!**



WHAT IS HUD'S ROLE IN THE CONPLAN PROCESS?

The law that created the ConPlan gives states and localities the flexibility to develop plans that meet local needs. The current thinking of federal officials is that state and local officials—with good input from citizens and stakeholders—know how to best address the low income housing needs of their communities. The role of the federal government under this approach is to provide funding; mandate an inclusive planning process; review and approve/disapprove the planning documents; and then get out of the way.

Given this approach, it is not always clear who is responsible for monitoring the ConPlan process. Advocates for people with disabilities feel HUD should review the plans more critically. HUD officials have stated that it should be the disability community's role to monitor what is going on in their community and to notify HUD when there is a problem.

This confusion often leads to no one holding state and local governments accountable for the strategies and decisions reflected in the ConPlan. For example, the needs assessment of one state's ConPlan may indicate a large need for rental housing for people with disabilities, yet none of the strategies for using the ConPlan resources are targeted to address this need.

This confusion around monitoring, combined with the latitude given to the states and jurisdictions, has also resulted in many ConPlan processes being far from inclusive or open to the public. Some communities have been very open about the process and have made a real effort to seek public input and participation. Others have regarded the ConPlan as one more bureaucratic requirement from HUD, rather than a legitimate effort to identify and address priority housing needs. In these communities, disability advocates will have to work much harder to find out what is going on and may have more difficulty influencing the outcome.

CHAPTER 2: WHAT IS INCLUDED IN THE CONSOLIDATED PLAN?

Once the disability community understands the importance of the ConPlan, the next step is to learn as much as possible about the document itself and the process used to create it. In particular, it is important to understand what rights citizens, especially people with disabilities, have in influencing what the ConPlan actually says.

WHAT DO I NEED TO KNOW TO GET INVOLVED?

In order to have the biggest impact, the disability community should have a clear understanding of what the ConPlan must include (as required by HUD) versus what decisions are left up to the state or localities. The more you know about what information the ConPlan must include, the more successful you will be in influencing the decisions generated from it.¹² There are six required components to the ConPlan which are described below.



1. Description of the Planning Process—Citizen Participation and Consultation Requirements

The ConPlan process is based on the idea that state and local governments and citizens, rather than the federal government, should be empowered to make affordable housing and community development decisions for their community. In order to ensure that there is real community participation in the ConPlan process, the federal government sets out minimum requirements regarding citizen participation and consultation with public and private service providers.

The description of the planning process provides an overview of how the state or locality prepares the ConPlan, and in particular, how they have met the citizen participation and consultation requirements described below. All efforts made by the state or locality to broaden public participation in the ConPlan process should be described in this section. The disability community should review this section of the ConPlan, as well as the Citizen Participation Plan itself, carefully, and make sure people with disabilities and their advocates are able to meaningfully participate in the ConPlan process.

The Citizen Participation Plan

The Citizen Participation Plan is the “road map” for the ConPlan process. HUD requires that each state or locality spell out the process for citizens to participate in the preparation of the ConPlan. The Citizen Participation Plan must “provide for and encourage citizens to participate in the development of the Consolidated Plan and substantial amendments to the Consolidated Plan and performance reports.”¹³ The Citizen Participation Plan should include specific steps that will be taken to encourage the participation of all citizens, **including people with disabilities**. A state or locality should be judged on whether its Citizen Participation Plan is really inclusive and if it is followed. Appendix 2 includes a sample Citizen Participation Plan that describes an accessible and fair ConPlan process.

Consultation with public and private service providers

In addition to the Citizen Participation Plan, HUD requires that the local or state officials “consult with other public and private agencies that provide assisted housing, health services, and social services, including those focusing on...persons with disabilities”¹⁴ when preparing the ConPlan.

Unfortunately, the rules do not state at what point or even how this consultation is to be done. This lack of specificity can be a serious problem, especially if the officials preparing the ConPlan are unfamiliar with how health and social services systems are organized. For example, these officials may invite agencies representing only one disability group to a meeting, and then claim to have satisfied this ConPlan requirement.

Given that many HUD programs are designed to serve all people with disabilities rather than targeting one disability group, the disability community should work together to organize a clear strategy and message about the housing needs and housing preferences of all people with disabilities. With this approach, the disability community can take maximum advantage of this consultation requirement. By organizing in this way, the disability community becomes a more powerful force in the housing debate during the preparation of the ConPlan. Without this united approach, local or state officials can ignore organizations representing the interests of people with disabilities because they may not appear to represent a numerically significant or broad-based constituency.

2. Housing and Homeless Needs Assessment

The housing and homeless needs assessment describes the affordable housing needs within the state or locality. These estimates of need must be provided for several population groups including elderly people, single persons, large families, and people with disabilities. The housing needs information is provided for both renters and homeowners. The presentation is organized by income group in the following categories:

- extremely low income (between 0 and 30 percent of area median income);
- low income (between 30 percent and 50 percent of area median income);
- moderate income (between 50 percent and 80 percent of area median income); and
- middle income (between 80 percent and 95 percent of area median income).

There is also a separate section devoted to homeless persons, and a section that discusses the need for supportive housing for non-homeless people, including: the elderly; frail elderly; people with disabilities (mental, physical, and developmental); persons with alcohol or other drug addictions; persons with HIV/AIDS; public housing residents; and any other categories the state or locality may specify.

The needs assessment is a critically important part of the ConPlan because it should determine which population groups would be given a high priority for housing assistance. The disability community should not wait to be asked by housing officials to provide housing needs data for the ConPlan. Rather, it should be proactive in collecting and providing this information to state or local officials, and should ensure that these data are included in the final plan sent to HUD. To have the greatest impact, data on the housing needs of people with disabilities should be offered to staff preparing the ConPlan **as early as possible** in the process so it is factored into decisions about the ConPlan’s priorities and housing strategies.

Homeless and supportive housing needs

The housing needs assessment in the ConPlan is divided into several categories, including separate sections for homeless people and people in need of “supportive” housing. Many ConPlans limit their discussion of the housing needs of people with disabilities to these two categories, and make the erroneous assumption that all people with disabilities are either homeless or are in need of housing defined as “supportive” by HUD. City and state staff preparing the ConPlan need to be informed that there are many people with disabilities who simply need a decent and affordable place to live or who need affordable housing that is more accessible. These “mainstream” housing needs of people with disabilities are often overlooked by housing officials in the ConPlan narrative.

3. Housing Market Analysis

The housing market analysis is a discussion of the significant characteristics of the housing market, including the supply, demand, condition, and cost of housing. It also contains an inventory of affordable housing, including transitional facilities for homeless and supportive housing. The discussion of the housing market should also describe the barriers to developing, maintaining, or improving affordable and accessible housing, including current tax policies, zoning ordinances, **and any expected loss of affordable housing from the current inventory.**

The disability community should pay particular attention to whether or not the ConPlan provides a discussion of the affordable housing units lost to people with disabilities due to the implementation of “elderly only” policies in federal housing developments in the community. Often, the loss of access to these units by people with disabilities has not been documented and is overlooked in the housing market analysis.

In many communities across the nation, housing contracts between HUD and private housing developments are ending. The owners of these developments are not required to renew these contracts. By “opting out” of the HUD contract, the owner is no longer required to provide affordable housing and may ask for higher rents, rents comparable to the general market. In many communities, these opt outs are resulting in a dramatic loss of affordable housing that was once available to people with disabilities. It is important that this loss of affordable housing also be documented in the housing market analysis of the ConPlan.

Other important factors that should be part of the analysis of the housing market include:

- the cost of housing as compared to the extremely low incomes of people with disabilities;¹⁵
- restrictive zoning that makes the development of affordable rental housing difficult;
- the comparability of HUD’s Fair Market Rent level¹⁶ in the community as compared to the income level of people with disabilities;
- the substandard conditions of much of the housing that is considered affordable; and/or
- the location of affordable housing in unsafe or isolated neighborhoods.

4. Development of a Five-Year Strategic Plan

The five-year strategic plan outlines the strategies that a state or locality will use to meet the priority needs for affordable housing and community development identified in the ConPlan. The categories of activities that must be included in the strategic plan are: (1)

affordable housing; (2) homelessness; (3) other special needs (non-homeless), including people with disabilities; and (4) community development activities other than housing.

Officials preparing the ConPlan must “indicate the priorities for allocating investment”¹⁷ and “describe the basis for assigning the priority”¹⁸ to each category of need. Despite these instructions from the federal government, this part of the ConPlan process frequently does not work for the disability community. Even with clear evidence of the affordable housing needs of people with disabilities (i.e., their extremely low incomes, documentation of the significant loss of affordable housing due to “elderly only” tenant selection policies, and so on), many communities do not give high priority to housing strategies that will benefit these constituents.

In other words, the ConPlan fails to require an adequate and enforceable link between the needs identified in the ConPlan and the proposed investment of housing dollars. Unfortunately, despite the efforts of affordable housing advocates, the current policy at HUD is to give maximum deference to states and localities in determining their own needs and responding to these needs as they see fit. An important question for the disability community to resolve with the locality, and perhaps HUD, is the point at which local flexibility becomes discrimination. While it is clear that the current level of HUD funding is not sufficient to meet all of the affordable housing needs in any community, it is also clear that people with disabilities should benefit from federal housing funding in proportion to their priority housing needs as identified in the ConPlan. **The disability community should approach local and state officials and HUD if the affordable housing needs of people with disabilities are consistently overlooked when allocating the resources controlled by the ConPlan.**

Despite the shortcomings of the ConPlan, there are still many opportunities for the disability community to work to ensure that the ConPlan does include housing strategies that are responsive to the housing needs and housing preferences of people with disabilities. Consistent pressure from the disability community will, in the long run, be a more effective strategy than expecting HUD’s involvement to make a difference. These strategies will be discussed further in Chapters 4 and 5.

5. Development of a One-Year Action Plan

The one-year Action Plan is a detailed description of how the federal funds available during the next 12 months (i.e., the program year) will be spent consistent with the strategies outlined in the five-year plan. The Action Plan includes a specific breakdown of the number and type of families that will benefit, the specific local housing activities that will be undertaken, and the geographic areas in which the community will direct federal housing assistance.

The ConPlan Action Plan is a blueprint the disability community can use to evaluate whether or not any federal housing money controlled by the ConPlan is being spent on housing activities that will benefit people with disabilities. In order to get a true picture of an area’s efforts over time, the disability community should look at the annual Action Plans for the past several years in addition to the most recent 12-month period. The disability community can then determine whether the amount allocated to housing activities benefiting people with disabilities appears to be a reasonable or a “fair share” of the funding available over time.

6. Analysis of Impediments to Fair Housing Choice

The ConPlan requires states and localities to sign legally binding certifications to HUD every year, including one stating that the community will “affirmatively further fair housing goals...and maintain records pertaining to carrying out this certification.”¹⁹ This means the state or locality must identify impediments to fair housing choice, and take appropriate action to overcome the effects of these impediments. This is a component of the ConPlan that may be particularly helpful to people with disabilities. Specifically, the impediments analysis must include:

- An in-depth examination of a state or locality’s laws, regulations, policies and procedures;
- An evaluation of how these laws, etc. impact the availability and accessibility of housing;
- A review of all conditions that affect housing choices; and
- An assessment of the availability of affordable housing units in a variety of sizes and locations.²⁰

Two of the fundamental impediments to fair housing choice for people with disabilities are their extremely low incomes and housing discrimination. A comprehensive impediments analysis should identify these facts as barriers that people with disabilities face when trying to locate and access affordable housing.

States and localities must also certify in the ConPlan that all federal housing program activity is in compliance with the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973. These laws both require the community to provide “reasonable accommodation” to people with disabilities during the ConPlan process if requested. Such accommodations might include providing written notice of public hearings to organizations representing people with disabilities, or perhaps providing a training session on the ConPlan process or federal housing programs. The disability community should not hesitate to request these or other accommodations if it will help to make the ConPlan process more accessible to people with disabilities.

REPORTING ON PERFORMANCE

In addition to the ConPlan itself, HUD requires a state or locality to report annually on the progress it has made in carrying out its strategic plan and its action plan. These performance reports are submitted to HUD within 90 days after the close of the program year. The performance report can help the disability community determine who is actually benefiting from the federal housing funding available to the community. The performance report should indicate the number and types of families served by income level.



The disability community should pay close attention to these statistics, particularly the information regarding extremely low-income households. These are the households whose incomes are below 30 percent of median income, which includes virtually all individuals with disabilities who receive SSI benefits. These statistics can help determine whether federally funded housing activities are creating affordable housing opportunities for people with disabilities.

SUBSTANTIAL AMENDMENTS

The law that governs the ConPlan process requires that **any** major changes, or “substantial amendments,” made to any part of the ConPlan must be managed via the Citizen Participation process. Each state and locality must clearly state in its Citizen Participation Plan what types of modifications will be considered “substantial amendments.” This includes any changes made to the one-year action plan, the comprehensive five-year strategic plan, or the Citizen Participation Plan. In accordance with the public participation requirements, changes to these documents can only be made after the public has been given the opportunity to review and comment on the proposed modifications.



Neither the law nor HUD guidance clearly defines what a “substantial amendment” is. HUD gives states and localities the authority to decide what changes would qualify as amendments. However, HUD regulations do specifically identify the following amendments:

- A change in the priorities for spending [ConPlan] money;
- A change in the purpose, scope, location, or beneficiaries of an activity;
- A decision to carry out an activity not previously described in the Annual Action Plan; and
- A change in the way [ConPlan] funds are distributed to various parts of the state or county.²¹


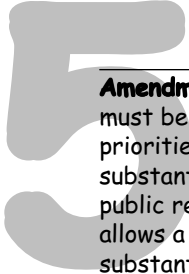
It is important to note the above amendments may not qualify as “substantial” in some states and localities, and therefore it is only required that the public be notified **after** the change has been made.

The importance of this requirement should not be underestimated. Substantial amendments provide a valuable opportunity for the disability community to influence the content of the ConPlan or planning process, even after it has been submitted and approved by HUD. Given this, it is critical that the disability community proactively engage the officials in a dialogue around developing a clear definition of changes that constitute “substantial amendments.” The sample Citizen Participation Plan in Appendix 2 provides some examples of these types of changes.


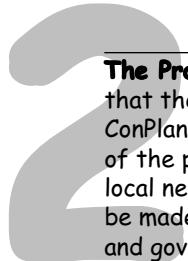
THE FIVE STEPS OF THE CONPLAN CALENDAR




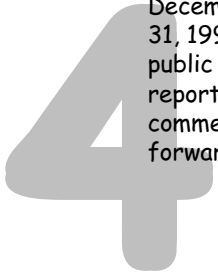
Identifying Need — The law requires public hearings on housing and community development needs and requires that these hearings take place before the proposed ConPlan is published for public comment. This is the time to provide public testimony on the housing needs of people with disabilities and the time for the disability community to actively engage local housing officials on the housing strategies that would benefit people with disabilities. Consultation with public and private services providers could also occur during the needs assessment process.




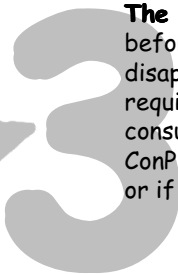
Amendments to the ConPlan — The ConPlan must be amended if there are any changes in priorities or uses of money. If there is a substantial amendment, some process for public review and comment is required. HUD allows a jurisdiction to decide what is a substantial change. The disability community should be prepared to request an amendment to the ConPlan if it is determined that the strategies and the action plan do not benefit people with disabilities at all. It is important to remind the local officials that HUD permits ConPlan amendments at any time, provided the correct process is followed.



The Proposed ConPlan — HUD requires that the jurisdiction publish the proposed ConPlan for citizen's comment. A summary of the proposed plan must be published in local newspapers, and completed copies must be made available to the public at libraries and government offices. In addition, the jurisdiction must provide a reasonable number of free copies of the plan to citizens and groups that request it. The public must have at least 30 days to review and provide written or oral comments on the proposed ConPlan. A summary of any comments or views offered, but not accepted, and the reasons for their rejection, must be included in the final ConPlan sent to HUD.



Annual Performance Report — These reports must be submitted to HUD within 90 days after the close of the "program year." (For example, if a jurisdiction's program year is January 1, 1997 through December 31, 1997 the report for that time period is due by March 31, 1998.) Annual Performance Reports must be available to the public for review and comment on at least 15 days before the report is sent to HUD. The jurisdiction must consider people's comments and attach a summary of them to the report when it is forwarded to HUD officials.



The Final ConPlan — The final ConPlan is due at HUD 45 days before the start of the jurisdiction's "program year." HUD can disapprove the final ConPlan if the citizen participation requirements were not followed, if social service agencies were not consulted, if any of the certifications were not accurate, if the ConPlan does not meet the "purposes" of the CDBG or HOME laws, or if the plan fails to satisfy all of HUD's requirements.

CHAPTER 3: WHAT ABOUT ALL THOSE OTHER HUD HOUSING PLANS?

The housing needs and strategies adopted in the ConPlan are also intended to influence the development of two other HUD mandated strategic plans—specifically the Continuum of Care Plan which guides the use of HUD McKinney Homeless Assistance Programs and the new Public Housing Agency Plan prepared by Public Housing Agencies.

MCKINNEY CONTINUUM OF CARE HOMELESS ASSISTANCE

Since the mid 1990s, funding for HUD's homeless programs has been made available through the Continuum of Care approach—that is a local or statewide network or system designed to coordinate efforts to address homelessness. The Continuum of Care approach is intended to help communities develop the capacity to envision, organize, and plan comprehensive and long-term solutions to address the problem of homelessness in their community. Like the ConPlan, this comprehensive approach encourages communities to prioritize gaps in the housing and services available for homeless people and develop long-term strategies and action plans to address these gaps using HUD McKinney funds. There are three HUD McKinney programs (Supportive Housing Program, Shelter Plus Care, and Section 8 Mod Rehab SRO) available through the McKinney Homeless Assistance national competition announced each year in HUD's Notice of Funding Availability (known as the HUD SuperNOFA).



Supportive Housing Program (SHP)

The Supportive Housing Program provides supportive housing and/or services to homeless people. SHP funding can be used to create transitional housing (temporary housing and services for up to 24 months), create permanent supportive housing for people with disabilities, or provide supportive services not in conjunction with SHP-funded housing.²²

Shelter Plus Care (S+C)

The Shelter Plus Care program provides rental assistance funding for homeless people with disabilities. This program serves primarily those people with mental illness, chronic problems with alcohol and/or drugs, and AIDS or related diseases. The rental assistance funds are matched by supportive services funding provided by the grantee.²³

Section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for Homeless Individuals

The Section 8 SRO program provides rental assistance in the development of Single Room Occupancy Dwellings (SROs) for homeless individuals. SRO projects are awarded Section 8 project-based rent subsidies for up to 10 years—a long-term commitment that helps the project sponsor obtain other financing necessary to develop the project.²⁴

The McKinney Continuum of Care Homeless Assistance approach is directly linked to the ConPlan. In fact, according to the HUD 1999 McKinney Continuum of Care application kit, each project funded by HUD through the McKinney Continuum of Care planning process is required to submit certification that it is consistent with the ConPlan for that area. It is possible that future HUD policies and regulations will strengthen this linkage between the ConPlan and the HUD Continuum of Care approach.

PUBLIC HOUSING REFORM AND THE PUBLIC HOUSING AGENCY PLAN

Public Housing Reform

For many years the federal government has debated what to do about public housing—and the Public Housing Agencies (also referred to as Public Housing Authorities) that run it. This question has been answered, at least for now, by new public housing reform legislation enacted in 1998. Continuing the federal policy that local and state officials—not HUD—know best how to use federal housing funds in the communities, the goal of public housing reform is to give Public Housing Agencies (PHAs) more flexibility and control over how federal public housing and Section 8 funds are used. For example, local officials can decide to direct more Section 8 funding to households with higher incomes who are saving to purchase a home or they can create a preference for very low-income people with disabilities, or both.



Public Housing Agency Plan

Along with this flexibility and control came new requirements, including the creation of a new five-year comprehensive document known as the Public Housing Agency Plan (PHA Plan).²⁵ In the year 2000, each PHA will be required to complete a PHA Plan that describes the agency's overall mission for serving low-income and very low-income individuals and families, and the activities that will be undertaken to meet the housing needs of these households.

In the past, the resources controlled by the PHA Plan, specifically federal public housing and the Section 8 rental assistance programs, were highly regulated by HUD. These programs were initially intended to provide affordable housing to the lowest income households, including many people with disabilities. They are HUD's major programs for assisting these households to rent decent, safe, and sanitary housing in the community. Section 8 and public housing allow people with limited incomes to obtain housing without spending the majority of their income on rent. The new PHA Plan will be used by PHAs to describe their strategies for using these resources to address the needs of low-income and very low-income people, including people with disabilities. For example, a PHA will be required to state in its PHA Plan if it will designate any of its public housing units as "elderly only" or if it will apply for any Section 8 Mainstream funding targeted to people with disabilities.

In consultation with a newly-created Resident Advisory Board, each PHA will be developing their first PHA Plan during 2000, including a statement on the housing needs of low- and very low-income people in the community and how the PHA will meet those needs. When federal officials created the PHA Plan they also linked it to the ConPlan. According to HUD's PHA Plan Interim Rule, "the PHA must ensure that its Annual Plan is consistent with the Consolidated Plan for the jurisdiction in which the PHA is located."²⁶ Specifically, the needs, goals, and activities detailed in the PHA Plan must reflect the needs and priorities documented in the ConPlan. In fact, PHAs can use the data provided in the ConPlan to develop the PHA Plan, rather than conducting their own needs assessment for the community.

What does this all mean for people with disabilities and their housing advocates? Disability advocates are very concerned that the link between the ConPlan and the PHA Plan will mean that people with disabilities will have less—not more—access to affordable housing in local communities. There are valid reasons for concern because most ConPlans do not accurately describe the acute housing crisis experienced by people with disabilities. Unfortunately, many state and local ConPlans contain inaccurate or incomplete data, particularly with regard to the housing needs of people with disabilities. Housing strategies in the ConPlan often do not address the housing needs of people with disabilities. With future funding for housing at stake, it is critically important that the housing crisis confronting people with disabilities be accurately described in both the ConPlan and the PHA Plan. Given the linkage between the PHA Plan and the ConPlan it is possible that if the needs of people with disabilities are not reflected in the ConPlan they will also be overlooked in the PHA Plan.

CHAPTER 4: HOW CAN THE DISABILITY COMMUNITY GET INVOLVED?

The ConPlan process is meant to be comprehensive and tailored to meet housing needs at the local level. It is an invaluable mechanism for both documenting the housing crisis facing people with disabilities and accessing federal housing resources. In order to be an active participant in the process, the disability community needs to:

- ☞ **Get organized** and have a clear and singular message about the different types of housing needed by people with disabilities as well as their housing preferences;
- ☞ **Learn the basics** of the ConPlan process including how HUD housing dollars (i.e., CDBG, HOME, ESG, and HOPWA funds) can be used, and how to get involved before decisions on housing strategies are actually made;
- ☞ **Actively participate** in the ConPlan process and react to all critical documents;
- ☞ **Document the need** for affordable housing among people with disabilities;
- ☞ **Analyze the housing market** by gathering accurate data regarding the current housing market. This includes an inventory of available housing resources;
- ☞ **Identify all barriers** to accessing affordable housing people with disabilities face; and
- ☞ **Develop strategies** that work and specific proposals for how ConPlan resources can be used alone, or in partnership with other federal programs, to successfully expand housing opportunities for people with disabilities (discussed in Chapter 5).

GET ORGANIZED

Because most HUD programs are targeted to **all** people with disabilities, it is important that providers and advocates serving people with all types of disabilities come together to develop an overall strategy for engaging local or state housing officials in the entire ConPlan process. These efforts should include the identification of specific and realistic strategies for the use of federal housing funds to benefit **all** people with disabilities.

Organizing the disability community to get involved in the ConPlan takes time and effort. Communities undertaking this should allow themselves the time to lay the right groundwork in terms of community process, data collection, and analysis. This will earn community buy-in and translate into material improvements in the disability system and the lives of people with disabilities.

The disability community could form a *Core Working Group* with an overall focus on expanding affordable housing opportunities, specifically through involvement in the development of the ConPlan. The group should develop a mission statement and identify goals, objectives, and action steps—such as reviewing the past ConPlans for the community or providing comments on the ConPlan draft at the public hearing—to accomplish these goals.



The working group should be as inclusive as possible, ensuring that essential consumers, providers, and other powerful stakeholders (e.g. business leaders, public officials, service provider networks, housing agencies) are engaged in the process from the beginning to maximize the level of involvement and legitimacy. Much of the success of the efforts will rest on the cooperation of policy makers and funders. If these stakeholders are not directly involved, they should be kept aware of the planning process and progress.

These organizing efforts should be conducted in the context of other related community planning activities, in particular the Continuum of Care and the development of the new PHA Plan. This is to ensure that priority activities and strategies in other housing plans are consistent with the Core Working Group's objectives.

LEARN THE BASICS

After developing a clear and singular message, the next step to getting involved in the ConPlan process is to have a picture of how the process works for your community or area. First, the disability community should find out if your local government receives federal housing funding directly from HUD and is required to have a ConPlan. It is important to find out who has the lead role in preparing the ConPlan and developing the schedule for the process. This can be done by calling the Chief Executive of the community or the planning/community development department of the local government. If the community does not have a ConPlan then contact the state's housing and/or community development department in order to get involved.



The disability community should also make sure to get a copy of the most recent ConPlan from these state or local officials. They should become familiar with both the content and the format of the ConPlan. The critical pieces of information to find out are:

- the ConPlan "program year;"
- when the next plan will be prepared;
- the schedule for public hearings; and
- the consultation requirements.

The public is entitled to access **all** information relevant to the ConPlan. It is important to make sure that you receive a **complete** copy of the ConPlan since often housing officials only distribute select sections, such as a list of projects that were funded in the past using ConPlan resources. HUD requires that a copy of the complete ConPlan be made available to the public, free of charge, within two working days of a request.

Access all Relevant Information

Through the ConPlan process, HUD requires that housing officials not only listen to the needs of the community, but also respond to those needs, and be accountable for their actions. This accountability is the foundation for many of the HUD requirements around public participation, including the public's access to information.

According to the law that created the ConPlan, the public must be given “reasonable” and “timely” access to all key information and records. This could include information such as data regarding how the ConPlan resources have been spent in the past or how it will be spent in the future. For past activities, the law limits the public’s access to these records to the past five years.

Unfortunately, HUD allows states and localities to decide how these documents will be made available to the public, and therefore the needs of people with disabilities may be overlooked. However, HUD does state that all key information and records must be made available “in a form accessible to persons with disabilities, upon request.”²⁷ The disability community should use this HUD regulation to ensure that people with disabilities are truly able to access ConPlan information. For example, copies of the ConPlan and the Citizen Participation Plan should be made available in facilities that are accessible by people with physical impairments.

Review the documents

The law that mandates the creation of the ConPlan also requires that officials developing the plan “notify” the public that information is available and allow citizens to “examine” the document so they may provide informed feedback. This requirement applies to almost all documents related to the ConPlan including:

- the five-year comprehensive document;
- the one-year Action Plan;
- the annual performance reports;
- the Citizen Participation Plan; and
- any substantial amendments made to the ConPlan.

Unfortunately, although the law requires that the public be notified about the ConPlan and be allowed to review it, housing officials developing the plan are given latitude to determine how the public will be notified, when, and how they will distribute copies of the documents to the public.

Get a copy of the Citizen Participation Plan

According to HUD regulations, a critical part of the ConPlan process is active input and feedback from the community, including people with disabilities. In the winter of 1999, HUD re-emphasized the importance of the involvement of the disability community in the ConPlan process through a memo from the HUD Secretary to all HUD Field Offices²⁸ that stated:

It is critical that persons with disabilities and their housing needs be fully considered in every jurisdiction we serve. To do so, we must reach out to persons with disabilities and their chosen advocates and hear their perspectives. I want to remind you that each jurisdiction is required to (1) include persons with disabilities in the Consolidated Plan development process and (2) include data regarding housing needs of persons with disabilities.

One of the first steps the disability community should take is to carefully analyze the Citizen Participation Plan since it describes the overall process for developing the ConPlan and is a key element for determining when, where, and how the disability community can be involved. First, contact officials in the housing or community development departments in

your community and request a copy of the Citizen Participation Plan. This document should be readily available and a limited number of copies should be free of charge. Make sure that the copy of the Citizen Participation Plan is complete and does not just provide excerpts. Appendix 2 provides a sample Citizen Participation Plan.

Second, the Citizen Participation Plan should be reviewed to ensure that the ConPlan process is **truly** accessible to people with disabilities and is in accordance with the required timeline. For example, are public hearings broadly advertised? Are they held in wheelchair-accessible facilities and are interpreters available when needed? Is there an easy process for requesting a draft copy of the Consolidated Plan made available in different formats, such as in large print, if needed? If the Citizen Participation Plan does not describe a planning process that is truly accessible to people with disabilities, but rather one that barely meets HUD requirements, arrange a meeting with local officials to discuss your concerns. At the meeting suggest specific reasonable accommodations that could be made to ensure more participation by the disability community. For example, the disability community could require that written notice of all ConPlan activities be mailed to non-profit disability organizations and service providers.

Obtain and review ConPlan performance reports

As mentioned earlier, in addition to developing the actual ConPlan, HUD requires each jurisdiction to report annually on the progress it has made in carrying out the activities laid out in its strategic plan. These performance reports can help the disability community determine who is actually benefiting from the federal housing funding provided by HUD. The report should indicate the number and types of families served by income level, including extremely low-income, very low-income, low-income, moderate-income, and middle-income households.

People with disabilities, their advocates, and families should get a copy of recent ConPlan Performance Reports and ask for assistance, if necessary, in understanding the housing activities that have been paid for with federal housing funds. Pay close attention to the statistics included in the performance reports, particularly the information regarding extremely low-income households, which represents virtually all people with disabilities receiving SSI benefits. These statistics can help determine whether the jurisdiction's federally funded housing activities are creating affordable housing opportunities for people with disabilities with very low incomes.

PARTICIPATE AND REACT

Before the ConPlan can be finalized, the law requires that the community have a chance to review the draft plan and comment on it. A limited number of free copies of the draft must be made available in public settings, such as libraries and government offices. Also, the law requires that the draft plan be made available in locations and formats that are easily accessible by people with disabilities. Some examples of ways to ensure that the draft ConPlan is accessible to people with disabilities include distributing copies in wheelchair-accessible buildings or making alternate versions of the draft Plan available, such as in Braille.



After the public reviews the ConPlan draft, they are given the opportunity to make public comments both in writing and at a public hearing. HUD requires each state and locality that completes a ConPlan to describe in the Citizen Participation Plan the policies for receiving and processing written and oral comments from the public regarding: the content of the ConPlan, the overall ConPlan process, or the Annual Performance Report.

Submit Written Comments

HUD requirements say, that at a minimum, every written complaint must be answered with a "timely" and meaningful written response, and that all comments must be "considered" by officials. A summary of all comments must be included as a part of the final submission to HUD. If the state or locality receives CDBG funds, then "timely" is defined as 15 working days.

HUD leaves a lot of discretion to the officials developing the ConPlan to define what a "meaningful" response is and how to deal with oral complaints. The disability community should not be discouraged by this fact since HUD procedures emphasize the importance of **all** comments and complaints. In fact, HUD requires its Field Office staff to review a summary of all comments and complaints before determining whether the ConPlan is complete.

Attend Public Hearings and Give Feedback

In order to solicit feedback from the community regarding the content of the ConPlan, the planning process requires that the housing officials developing the plan hold public hearings. It is at these hearings that citizens from the community are given the opportunity to comment on the various parts of the ConPlan including its content or the planning process itself. These public hearings provide a critical opportunity for the disability community to make an impact on public officials present since comments made during the public hearings are recorded and required to be submitted to HUD as part of the final plan.

The law regarding ConPlan public hearings states that they must be held throughout the ConPlan process. Specifically, the public must be able to provide information and comment on:

- the housing and community development needs in the community;
- the proposed activities to be funded with the ConPlan resources; and
- the performance of the state or locality using the ConPlan funds.

The regulations also allow the states and localities to limit the public hearings to only one (for states) or two (for localities) throughout the process.

Even though the regulations allow states and participating jurisdictions to limit the number of public hearings, the disability community should maximize this opportunity to give feedback and testimony regarding the housing crisis facing people with disabilities and the role of the state and local housing officials in addressing their needs. Unfortunately, in practice, many officials lump together a public hearing on last year's performance with next year's activities. By doing this, the officials spend only a limited time on each topic and create so much confusion that the public is discouraged from participating. Thus, the disability community needs to try hard to convince the housing officials to provide additional public hearings at different stages in the planning process and to encourage a clear focus and agenda for each hearing.

Regardless of how many public hearings there are, the disability community should prepare for the hearings and plan to have a number of individuals speak. Specifically, the disability community should make sure to:

- state the housing needs of people with disabilities clearly;
- comment on the past performance of the state or locality in funding activities that address these needs; and
- make specific recommendations for how to use ConPlan funds to expand housing for people with disabilities.

Utilize the “Substantial Amendments” Requirement

As described in Chapter 2, substantial amendments are those changes made to the ConPlan that are large enough in scope that they require public feedback before implementing. These amendments provide an invaluable opportunity for the disability community to influence the content of the ConPlan even **after** it has been submitted and approved by HUD. Also discussed earlier was the latitude given to states and localities in defining which changes constitute “substantial” modifications, thus enabling them to limit the input from the public when making certain types of changes.

There are two ways the disability community can utilize the “substantial amendments” requirement of the Consolidated Plan. First, disability advocates should encourage housing officials to use a broad definition when defining which changes to the ConPlan would be considered “substantial” enough to require community input. Some examples of substantial amendments that would help the disability community influence the ConPlan include:

- a change in the type of people benefiting from an activity including changes in income levels, race or ethnicity, or size of household;
- a decrease in the number of people with disabilities benefiting from ConPlan activities; or
- a decrease in the number of extremely low- or low-income people benefiting from ConPlan activities.

Second, the disability community should request a substantial amendment to the ConPlan if it does not meet all the HUD requirements. For example, if a ConPlan does not provide any information on the housing needs of homeless people, misrepresents the housing needs of people with disabilities, or otherwise discriminates against people with disabilities, **and** the ConPlan has already been finalized and approved by HUD, the disability community should seek a substantial amendment to the ConPlan. To do this, the disability community should meet with the officials who developed the ConPlan, present with them with the complaints in writing, and provide ways the ConPlan could be modified. The disability community may need to seek HUD’s assistance if these officials are uncooperative and unwilling to make the necessary changes.

File Complaints with HUD

Over the years, low income housing advocates and advocates for people with disabilities have been concerned that the ConPlan does not require local housing officials to address the most urgent housing needs in local communities and have expressed these concerns to HUD

and to Congress. However, despite the urging of these advocates and people with disabilities, HUD rarely disapproves a ConPlan submitted for its approval even if there have been complaints or negative comments submitted.

Unfortunately, HUD officials are likely to use their power to disapprove a ConPlan only when strong evidence is produced as to why disapproval is necessary. It is important that the disability community carefully review the testimony given at the public hearings, the consultation process with public and private service agencies, and the responses of housing officials to citizens' comments that were **not** taken into consideration during the process. It is also important to review and document the jurisdiction's "track record" on housing for people with disabilities over several years, rather than for a one- or even two-year period.

If local housing officials consistently refuse to consider the housing needs of people with disabilities year after year, then there may be sufficient evidence to attract HUD's attention. Currently there is no formal process for filing a complaint regarding the ConPlan (or related documents) with HUD. The disability community should feel free to submit a complaint nonetheless. Do not be afraid to raise these issues with HUD. Write to the HUD Secretary's Representative and express your concerns. Make sure to send a copy of the complaint to the HUD Office of Fair Housing and the Senior Community Builder in the local HUD Field Office. Without the disability community's willingness to document and call attention to the problem, HUD will never know a problem exists. It is surprising how many communities decide to cooperate once HUD is involved.

DOCUMENT THE NEED

The housing and homeless needs assessment section of the ConPlan describes the affordable housing needs within the jurisdiction. For the ConPlan, these estimates of need must be provided for several population groups, and be organized by income group. The needs assessment is a critically important part of the ConPlan because it **should** determine which population groups (among the many eligible for HUD programs) will be given a high priority for housing assistance.



As stated earlier, the disability community should pay close attention to the data included in the ConPlan needs assessment, particularly the information regarding extremely low-income households which includes virtually all individuals with disabilities who receive SSI benefits. As discussed in Chapter 2, the disability community also needs to ensure that officials preparing the ConPlan do not assume that people with disabilities are either homeless or in need of supportive housing. It is important that the disability community check to make sure that these "mainstream" housing needs of people with disabilities (i.e., Section 8 and public housing) are not overlooked in the ConPlan narrative.

Write an Effective Needs Statement

Disability advocates should approach housing officials with a clear picture of the housing needs of people with disabilities. The disability community should take the lead in collecting and providing housing needs information to the appropriate officials, and should ensure that

these data are included in the final ConPlan sent to HUD. To have the greatest impact, data on the housing needs of people with disabilities should be offered to staff preparing the ConPlan **as early as possible** in the process so that this information is factored into decisions about the ConPlan's priorities and housing strategies.

There is no one correct way to assess need. Sources and methods that different communities employ vary depending on the size of the community, complexity of the populations, capacity of providers, and whether there are established mechanisms for collecting needs data, such as activities associated with a community's Continuum of Care application.

Regardless of the methodology used to gather the data, good estimates of need are sufficient for documenting the problem. It is important that the needs statement describe the housing needs of all people with disabilities. Given that ConPlan regulations require there to be a special section on the needs of people with disabilities who are homeless or in need of supportive housing, no one should be overlooked. The needs statement should also describe the needs of people with disabilities in residential settings, such as group homes, who may desire more independent housing options.

Whenever possible, the disability community should use existing sources to provide data regarding the housing needs of people with disabilities to the officials developing the ConPlan and the PHA Plan. For example, *Priced Out in 1998*, a publication by TAC and the Consortium for Citizens with Disabilities Housing Task Force,²⁹ provides documentation of the extreme housing crisis that people with disabilities receiving SSI confront in communities across the nation. Other policy and research reports, including reports published by the Social Security Administration and national advocacy organizations, contain data regarding the need for affordable housing for people with disabilities. The disability community should consult the local library and advocacy agencies, and use the Internet to find other available sources.

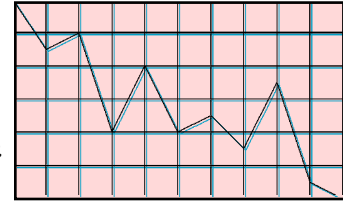
The disability community can also utilize data from management information systems of service providers to document the need for housing among the people they serve. Useful information includes the number of people on the waiting list for residential services or PHA housing assistance (including public housing and Section 8); the number of people who are living at home with aging parents, homeless, rent burdened, "doubled up" or living in sub-standard housing. Service providers should be asking these questions in order to develop comprehensive housing needs data.

Finally, disability providers can hold focus groups with people with disabilities to solicit information about their housing needs. This method of gathering information may be more labor-intensive and time-consuming, but the qualitative information received from people with disabilities combined with the quantitative data from management information systems or other sources provides a compelling picture of the housing crisis facing people with disabilities.

Appendix 4 provides a sample assessment of the housing needs of people with psychiatric and developmental disabilities in an urban county in the Midwestern US. This assessment can be used by the disability community as a model for developing a needs statement.

Analyze the Housing Market

The disability community should be sure that this section of the ConPlan points out the current factors that contribute to the housing crisis facing people with disabilities. The loss of federal housing available for people with disabilities due to the implementation of "elderly only" housing policies is of significant importance. Recent federal data show that over 50 percent of privately owned HUD assisted housing projects have adopted some preference for elderly people.³⁰ Due to these "elderly only" housing policies, TAC and the Consortium for Citizens with Disabilities Housing Task Force have estimated that approximately



273,000 apartments in federally subsidized elderly/disabled housing buildings will no longer be available to people with disabilities under age 62 by the year 2000.³¹

Document the Loss of Affordable Housing Due to "Elderly Only" Housing Designation

The disability community should **insist** that local officials preparing the ConPlan include a discussion of the designation of "elderly only" housing in the housing market analysis. HUD's ConPlan guidelines state that the community must include an assessment of whether any federally assisted units are "expected to be lost from the assisted housing inventory **for any reason**"³² [emphasis added].

In responding to this requirement, housing officials preparing the ConPlan will focus attention on the physical loss of housing units, such as the demolition of public housing buildings, or on the loss of affordability, such as the expiration of project-based Section 8 contracts in some assisted housing developments. Without the disability community's advocacy and involvement, staff preparing the ConPlan are unlikely to recognize that "elderly only" tenant selection policies in federal public and assisted housing constitute a real "loss" of units for people with disabilities.

To quantify the loss of federally funded public housing, people with disabilities or their advocates should contact the local PHA or HUD to see if the PHA has a HUD-approved PHA Allocation Plan to designate "elderly only" housing, or if it has any plans to do. The upcoming PHA Plan must include a discussion of plans to designate any housing and will be a good source of information for the disability community in the future. If there is an approved Allocation Plan, the number of units that are now available exclusively to elderly households represents the loss of housing for people with disabilities. [NOTE: HUD has approved over 120 Allocation Plans thus far, with a loss of over 46,000 units nationally. You can review HUD data regarding these Allocation Plans at www.hud.gov/pih/sac/sachome.html].

Documenting the loss of privately owned HUD assisted housing is more difficult because HUD does not require owners of this housing to report this information. However, if there are any HUD-assisted housing developments that no longer accept applications from people with disabilities, or limit the number of units available, the disability community should document this fact during the ConPlan process. If possible, the disability community should

organize a survey of all privately owned HUD-assisted housing in the area to determine which properties are no longer available to people with disabilities and provide this information to the staff preparing the draft ConPlan. A list of HUD assisted properties should be available through the local HUD Field Office.

Inventory Existing Resources

The approach used during the ConPlan process to inventory existing resources will vary depending on the size and complexity of the housing system in the community, but the disability community should ensure that the inventory is comprehensive and accurate. The inventory of capacity and resources should include a look at resources that lie outside of the traditional housing system, such as those resources typically accessed by people with disabilities, including group homes and other residential settings.

It should also include "mainstream" affordable housing resources, such as conventional public housing, Section 8, other rental subsidy programs, and other affordable housing and community development resources available in the community. Data available at HUD's web site³³ can provide a picture of how many people with disabilities are currently utilizing Section 8 subsidies or are residing in public housing in a particular community. The disability community should ensure that the information contained in the ConPlan inventory includes this type of data.

IDENTIFY BARRIERS

As stated earlier, there are two fundamental impediments to fair housing choice for people with disabilities: their extremely low incomes, and the discrimination they face in accessing affordable housing. The disability community should make sure that a state or locality's impediment analysis clearly documents these facts as significant barriers to people with disabilities to access housing in the community.

The disability community should make sure that the ConPlan clearly identifies the many ways people with disabilities are discriminated against in their attempts to access housing in the community. This discrimination may include:

- individual landlords refusing to rent to people with disabilities because of their disability;
- neighborhood opposition to the development of affordable housing for people with disabilities;
- a lack of physically accessible housing; and
- the unwillingness of housing providers to make reasonable accommodations for people with disabilities.

If the state or locality has not identified these impediments and/or has not formulated a plan to overcome them, the disability community can challenge the community's approach, and request that HUD instruct them to undertake a more comprehensive analysis of the impediments to fair housing choice.



CHAPTER 5: STRATEGIES THAT WORK

In order to have the maximum impact on the ConPlan process, the disability community should identify concrete housing strategies and recommendations. They should also be prepared to present these recommendations to officials developing the ConPlan. It is important that the disability community think “outside the box” when developing these recommendations—using both “mainstream” ConPlan programs (e.g. HOME, CDBG, ESG, and HOPWA programs) as well as other resources which can be targeted to people with a disabilities who are in need of affordable housing. Disability housing advocates should also keep in mind that most HUD housing programs are targeted to **all** people with disabilities. For this reason, partnerships and joint advocacy efforts with organizations that serve other disability populations are often helpful when trying to engage the housing officials that control the ConPlan process.



When developing strategies to obtain resources controlled by the ConPlan, it is necessary to have a good understanding of exactly how HOME, CDBG, ESG and HOPWA funds can best be used to expand housing—in other words, to not only know how they can be utilized, but also how they cannot. For example, HOME funds can be used for tenant-based rent subsidies, but cannot be used for project-based rent subsidies or for project operating subsidies. After reviewing this guidebook, if disability housing advocates have questions about how HUD resources can be used, they can request technical assistance from the staff preparing the ConPlan or contact HUD Community Builder staff through the local HUD Field Office.

It is also important to develop strategies that are **feasible** and that can work in the current housing environment. For example, HOME funded tenant-based rental assistance resources will not be effective if there is very little rental housing in the area. Similarly, targeting HOME funds for the acquisition and rehabilitation of rental housing will be problematic unless there is an organization with the expertise and experience to “make the project happen.” Remember, there are other organizations competing for these funds. You must be able to demonstrate the capacity to successfully carry out a feasible project.

Below are some examples of creative strategies addressing the housing needs of people with disabilities. These examples are designed to illustrate how resources controlled by the ConPlan can be used—frequently in combination with other HUD housing programs—to respond to the housing crisis experienced by all people with disabilities who have extremely low incomes.

STRATEGIES FOR ENGAGING HOUSING OFFICIALS RESPONSIBLE FOR PREPARING THE CONPLAN

Many state and local housing officials have had little experience with the disability community concerning the actual development of housing strategies. However, as more and more people with disabilities confront an affordable housing crisis, it is important for the disability community to begin to assertively engage housing officials at all levels of

government. Unfortunately, some housing officials regard federal housing funds controlled by the ConPlan as “their” money—and are reluctant to change how they spend it. In these communities, disability advocates will have to work much harder to establish working partnerships with these officials. Examples of ways to engage state and local housing and community officials are described below.



Requesting Assistance from HUD

Three years ago, the disability community in a large city established a Housing Task Force and developed a list of funding strategies and priorities for people with disabilities using ConPlan resources. After considering all of the options, the Task Force recommended that HOME funds be used to establish a rental assistance program for people with disabilities. Since the Task Force was created, members have provided oral testimony and submitted written comments each year during the ConPlan process, requesting that HOME funds be set-aside for this purpose. Two years ago, the Task Force expanded to include other disability organizations not previously involved, including people with physical disabilities and people with HIV/AIDS.

Working together, these organizations have repeatedly requested that the community's HOME funds be used to provide rental assistance. They have encouraged people with disabilities and their families to attend and speak out at ConPlan public hearings, and have met frequently with housing officials, including a meeting one year ago with the Director of the city's Housing Department.

After several years of frustration and no action from the city, the Housing Task Force decided that it was time to get HUD involved. Carrying written proof of the city's history of ignoring the needs of people with disabilities when developing the ConPlan, the group met with HUD Community Builder staff and requested their assistance. Task force members were able to document to HUD that the city's ConPlan described the priority housing needs of people with disabilities, but made no investment in ConPlan resources to address these needs. HUD staff were impressed by the efforts of the Housing Task Force, and agreed to engage city officials in a dialogue.

City officials soon learned about the HUD meeting, and became concerned that their relationships with HUD officials might be affected. They invited the Housing Task Force to a meeting, and, after much discussion, agreed that a rental assistance strategy using HOME funds would greatly assist people with disabilities with their housing problems. It was also agreed that the PHA would be the appropriate agency to administer the program. During the preparation of the next ConPlan Annual Action Plan, city officials included a substantial amendment to the ConPlan, which created a HOME funded tenant-based rental assistance program. The program now provides 25 people with disabilities with a two-year renewable rent subsidy.



Using the ConPlan Process to Influence the PHA Plan

A county Department of Public Health that provides services for people with developmental disabilities has spent the past few years providing testimony at its local ConPlan hearings and advocating for its “fair share” of resources for people with disabilities. It has succeeded in getting accurate

needs data put into the ConPlan, but has not been successful at getting housing resources targeted to people with developmental disabilities. While attending a state housing conference, the staff from a non-profit service provider learned about a new HUD planning process called the PHA Plan. In particular, they learned that the new PHA Plan would determine which low-income households would be given preference for assistance in the PHA's Section 8 program. The non-profit staff immediately informed the Housing Specialist of the Department of Public Health of this new housing policy that might impact all people with disabilities, including people with developmental disabilities.

Using the housing needs data developed for the ConPlan process, the Housing Specialist met with the Director of the PHA and, after much discussion, convinced her to conduct a review of the PHA's Section 8 and public housing programs to determine the number of people with disabilities being assisted in these programs. This review indicated that people with disabilities were probably being "steered" away from the PHAs public housing waiting lists by PHA staff. The PHA Director also was surprised to learn that 25 percent of the households on the Section 8 waiting list were people with disabilities. The Housing Specialist of the Department of Public Health then made two written recommendations regarding the PHA Plan to the PHA Director. They were: (1) to establish a preference in its Section 8 program for people with disabilities; and (2) to apply to HUD for the Section 8 Mainstream Program for People with Disabilities.

When the draft PHA Plan was published for public comment several months later, it included a strong housing needs assessment of people with developmental disabilities and other disabilities which was taken primarily from the ConPlan information supplied by the county Department of Public Health. The PHA Plan as drafted did not include a proposal to create a preference on the Section 8 program for people with disabilities. However, the PHA Plan did specifically state the PHA's commitment to apply to HUD for the maximum amount of Section 8 vouchers allowable under the Mainstream Program, and to engage in additional discussions regarding the increasing use of HOME tenant-based rental assistance funds. All parties involved agreed that this was a good first step in creating a partnership between the disability community and the PHA.

3

Building Non-Profit Capacity Using ConPlan Resources

The largest non-profit agency in the city serving people with psychiatric disabilities has recently decided to expand its mission statement to include the goal of expanding housing opportunities for their consumers. This change was a result of a recent needs assessment conducted by the agency that documented that the top concern among people with psychiatric disabilities was finding decent and affordable housing. A key factor in the non-profit agency's decision to take on housing activities was also the lack of capacity of the community's PHA, which was considered a "troubled" PHA by HUD.

It was recognized that this non-profit had very limited prior housing experience although they had a good track record administering HUD funds. For example, several years ago the agency had received CDBG funding to help renovate a mental health clubhouse program. They also administered a three year McKinney SHP grant to provide supportive services to

homeless people with mental illnesses through HUD's Continuum of Care process. Recognizing their need to develop capacity to undertake housing activities, the non-profit approached the city's community development agency that controls the ConPlan resources to ask for guidance and technical assistance. The community development officials were surprised that a disability service provider was considering developing housing, but they were very cooperative and invited the agency to be an active participant in the development of the next ConPlan.

City staff also informed the non-profit staff that additional technical assistance might be available from HUD technical assistance providers. Jointly they approached HUD regarding this need, and learned that a "Housing 101" workshop was planned as part of HUD's technical assistance activities in that region. After attending the workshop, both the city and the non-profit agency agreed that a separate non-profit organization dedicated to housing—specifically a Community Housing Development Organization (CHDO)—should be created. Continuing to work together, they identified HOME funds in the ConPlan that could be used as a capacity grant for a new CHDO. They also identified a local philanthropic organization that was interested in expanding capacity in the non-profit housing sector. Using funds from the philanthropic organization, a CHDO was created and incorporated. City officials then issued a Request For Proposals for CHDO capacity development grants, and the new CHDO was successful in obtaining these funds. Currently, the CHDO is working on its first supportive housing project, which will include 10 units of housing for people with psychiatric disabilities, as well as 10 units of affordable housing for families living in the community.

PROTECTING AND EXPANDING HOUSING OPPORTUNITIES USING THE CONPLAN

As stated earlier, in many communities across the nation it is impossible for people with disabilities to locate decent and safe housing without utilizing the resources controlled by the ConPlan, and its PHA counterpart, the PHA Plan. Specifically, people with disabilities receiving SSI benefits, on average, nationally, have to spend 69 percent of their income in order to rent a one-bedroom apartment. Without some sort of rental assistance, people with disabilities are too poor to obtain decent and affordable housing. The examples below outline ways to use ConPlan resources to expand rental assistance opportunities for people with disabilities.



4

The Link Between the PHA Plan, the ConPlan and "Elderly Only" Housing

Since 1996, the non-profit agencies serving people with disabilities in a suburban community had been meeting monthly. In 1998, these meetings—which usually focused on information exchange—began to focus on the housing problems facing people with disabilities. In particular, it was noted that there were some large HUD subsidized housing developments in the community that recently implemented "elderly only" eligibility policies. It appeared that younger people with disabilities were no longer able to access these housing units, although staff at the housing

complexes were not very forthcoming about the reasons why, except to say it was because of “a new HUD rule.”

After calling HUD and several housing advocacy organizations, the group was able to piece together that, in fact, there was a new federal housing policy that could restrict housing previously available to people with disabilities to now house only elderly households. At least 200 units in the community had been converted to “elderly only” housing. They also learned that the local PHA was intending to create “elderly only” housing and “disabled only” housing, which was also permitted by the new HUD rule. Not surprisingly, the “disabled only” housing was to be located in the worst public housing project located in a run-down neighborhood with a high crime rate.

Armed with the data regarding the need for affordable housing among people with disabilities and the loss of available affordable housing units, the group requested a meeting with the Director of the PHA and the city’s ConPlan staff. At this meeting, the group reviewed two critical policies. First, they learned the PHA could not designate “elderly only” or “disabled only” housing unless that designation was consistent with the HUD-approved ConPlan. Second, they found the most recent ConPlan had no discussion of creating “disabled only” housing, but rather emphasized housing programs for people with disabilities that were developed through a scattered site approach—specifically through the Section 8 and Shelter Plus Care tenant-based rental assistance programs. Faced with this information, and the strong opposition from the disability community, the PHA agreed to modify its plans. While they still intend to move forward with the designation of “elderly only” public housing, they withdrew their proposal to create any “disabled only” housing. Instead they decided to seek HUD HOPE VI funds to re-develop the deteriorated public housing project, and seek Section 8 vouchers to offset the loss of housing for people with disabilities that occurred from the implementation of “elderly only” housing policies.

5

Accessing New Housing Developed with HOME Funds

A woman with a psychiatric disability lived at home with her mother for many years. After talking about it for sometime, the mother and daughter decided that it was time for the daughter to live independently in the community. The daughter had a social worker whom she met with regularly who also felt the daughter was more than ready to live in her own apartment. The major barrier to this move seemed to be her lack of income to afford a modest apartment. The daughter only received \$500 each month in SSI benefits and the mother was in no position to assist her daughter financially. In fact, the loss of the daughter’s income to the household would be a hardship for her mother, because the daughter regularly paid the heat and electric bills.

As the mother, daughter, and social worker began to look for appropriate and affordable housing, the housing crisis facing people with disabilities became a reality for this family.

Many landlords in the private market were asking \$400 a month (or 76 percent of the daughter's income) for a small studio apartment!

After weeks of searching without success, the mother decided to call the city's housing department. After many phone calls and conversations, the mother learned that housing developed using certain types of federal funding controlled by the ConPlan process—particularly HOME funds—must have a percentage of affordable units. After calling the officials at the local housing department multiple times, the mother was finally able to get a list of some of those properties in the community developed with HOME funds. They contacted these properties and were surprised to learn that studio units were renting for \$200 per month and that—because of their small size—there were very few people on the waiting list for these units. Within 6 months the daughter had moved into her own studio apartment.

During her many conversations with city housing staff, the mother learned about the availability of HUD funds for emergency assistance for low-income people to pay heating bills during the winter months. This fact helped the mother develop a plan to apply for these funds for the following winter.

CONCLUSION

Across the nation, people with disabilities are facing a housing crisis. The combination of limited incomes, community discrimination, and the reduction in affordable housing units has made it virtually impossible for people with disabilities to locate and obtain safe and decent housing. In this day and age, the resources controlled by the ConPlan have become invaluable in expanding housing opportunities for people with disabilities.

Since the creation of the ConPlan in the early 1990s, housing and disability advocates have struggled to decipher the planning process so they can effectively access the housing and community development funds. This guidebook should provide the disability community with the information and tools necessary to engage state and local housing officials in a meaningful discussion about addressing the affordable housing needs of people with disabilities.

With the development of the new five-year ConPlans, and the PHA Plans, during the year 2000, it is important that the disability community use these tools to start influencing their area's planning process right now! The best approach is to get involved early and often in the process. Join with other disability advocates, get informed, and develop an overall strategy for influencing the process. Provide the housing officials with accurate and comprehensive needs data and information about the current housing market in that state or locality. Develop specific strategies for using the ConPlan resources to expand housing opportunities for people with disabilities. Most importantly, let local officials know that the disability community takes the ConPlan process seriously, that you will monitor their actions and responses carefully, and that you intend to take action if your recommendations are totally ignored. Don't stand on the sidelines and miss out!

CITATIONS

The authors of this guidebook wish to thank Ed Gramlich of the Center for Community Change and the US Department of Housing and Urban Development for allowing us to use materials from their publications HUD's Consolidated Plan and Guide to Continuum of Care Planning and Implementation, respectively.

TAC and the CCD Housing Task Force would like to thank the Melville Charitable Trust for the generous support provided for the preparation and publication of this guidebook.

1. Further information regarding the Consolidated Plan is available at HUD's web site at www.hud.gov/progdesc/conplan.html
2. Priced Out in 1998: The Housing Crisis for People with Disabilities. Edgar, Elizabeth; et al. Technical Assistance Collaborative and Consortium for Citizens with Disabilities Housing Task Force. Boston: 1999.
3. Referred to in this guidebook as a "locality."
4. Generally, cities with populations greater than 50,000 and urban counties with populations greater than 250,000 receive federal housing and/or community development funding directly from HUD.
5. Summaries of selected ConPlans are available on the HUD web site at www.hud.gov/states.html
6. HUD's Community Planning and Development (CPD) Office administer all of the resources controlled by the ConPlan. Visit the CPD web site at www.hud.gov/cpd/cpdhome.html
7. The HOME program was authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act and is governed by HUD regulations 24 CFR Section 92. Further information regarding the HOME program is available on line at www.hud.gov/progdesc/home1a.html
8. HUD regulations governing the CDBG program are available on line at www.hud.gov/cpd/cdbg/cdbgreg.html
9. The HUD regulations that govern the Emergency Shelter Grant program are located at 24 CFR Section 576.
10. The HUD regulations governing the HOPWA program are included in 24 CFR Section 574.
11. The HUD web site provides executive summaries of ways HOPWA grantees have used this funding. These summaries can be found on the internet at www.hud.gov/cpd/hopwa/statesum.html
12. A copy of the complete HUD regulations governing the Consolidated Plan are available at 24 CFR Section 91.
13. 24 CFR Section 91.110.
14. 24 CFR Section 91.105(a)(2)(i).
15. People with disabilities living on SSI benefits often cannot afford even modestly priced rental housing unless they spend more than 50 percent of their income for rent and utilities-considered a "severe" rent burden by HUD.

CITATIONS

16. Annually, HUD establishes the Fair Market Rent for every market area by reviewing the price of rents for efficiencies (i.e., studios), one bedrooms, two bedrooms, etc. in that county or metropolitan area. An apartment at the Fair Market Rent is meant to be modest, not luxurious, costing less than the typical apartment of that bedroom size in that city or county.
17. 24 CFR Section 91.215(a)(1).
18. 24 CFR Section 91.215(a)(2).
19. 24 CFR Section 91.325(1).
20. Fair Housing Planning Guide. US Department of Housing and Urban Development. Vol. 2.
21. Fair Housing Planning Guide. US Department of Housing and Urban Development. Vol. 2.
22. The HUD regulations that govern the McKinney Supportive Housing Program are located at 24 CFR Section 583.
23. The HUD regulations that govern the McKinney Shelter Plus Care Program are located at 24 CFR Section 582.
24. The HUD regulations that govern the McKinney Section 8 SRO program are located at 24 CFR Section 882.
25. For more information see the PHA Plan Interim Rule published on page 8169 of the Federal Register on February 18, 1999.
26. PHA Plan Interim Rule. Federal Register: 18 February 1999. p. 8178.
27. 24 CFR Section 91.105(g).
28. A complete copy of the HUD Secretary's memo is included as Appendix 3.
29. Available on line at www.c-c-d.org/priced_out_in_1998.htm
30. Assisted Housing: Occupancy Restrictions on Persons with Disabilities. United States General Accounting Office. 1998.
31. Opening Doors: Recommendations for a Federal Policy to Address the Housing Needs of People with Disabilities. TAC and CCD. Boston: 1999.
32. 24 CFR Section 91.210(b)(2).
33. Available at www.hud.gov/pih/systems/mtcs/pihmtcs.html
34. Excerpted from HUD's Consolidated Plan: An Action Guide for Involving Low Income Communities. Gramlich, Ed. Center for Community Change. Washington DC: 1998.