

Attachment B: Draft 2019-2020 Annual Action Plan Public Comments and Agency Responses

The draft of the 2019-2020 Annual Action Plan was made available on July 10, 2019 for a 30-day public comment period ending August 9, 2019. The State of Montana held a public hearing on the Draft 2019-2020 Annual Action Plan on August 2, 2019 and recorded a transcript of all comments received at the hearing. All comments received in writing and at the hearing were considered, and the State of Montana's responses to each comment are provided below.

Comments Received and Responses Thereto

**North Central Independent Living Services, Inc.
Shyla Patera, IL Specialist**

Comment #1:

My name is Shyla Patera. I am an IL Specialist with North Central Independent Living Services Inc. in Black Eagle, Montana. North Central Independent Living Services, Inc. serves north central Montanans with disabilities. I wish to comment on Montana's Statewide Annual Action Plan to HUD for 2019-2020.

We, at NCILS, wish to commend the Montana Housing for much of its housing work regarding Montanans with disabilities and others in housing crisis to find more stability in their individual housing situations. However, we feel that more needs to be done regarding physical accessibility, visit-ability, and universal design both in our rental and homebuyer housing stock. The Montana Board of Housing and the City of Great Falls should undertake an assessment of not only its physical housing stock, but also the programs, policies, and partnerships it is forming to ensure that all are accessible and being utilized by those with disabilities that may need the programs most. Community shelters should be accessible to all including those with mobility, sensory, and chemical disabilities. One of North Central Independent Living Services Inc. requests is to apply for the Mainstream Housing and Continuum of Care NOFAs out for application now. Securing funding will through these NOFA's may help increase accessible stock, increase discussion on accessibility and housing policies throughout all areas.

NCILS encourages innovative practices and policies to ensure that low income Montanans have access to rental housing. We also would ask that the Board of Housing and the State of Montana as well as our cities, towns and rural areas advocate for those who wish to reintegrate into Montana communities that have lived in institutional settings i.e. the Montana Developmental Center, Warm Springs, correctional, and other nursing home settings. We believe that the State of Montana should explore 811 Housing, TBRA and other appropriate DPHHS and housing supports available in order to facilitate successful community transitions and meet Montana's Olmstead priorities. To meet this goal, we are advocating for both statewide and local housing navigators to be hired on staff when possible. Given potential funding constraints, we encourage public private partnerships and training to meet this goal. The State of Montana needs to study its community policies and ordinances so that people with disabilities can live in our homes and apartments not

be placed in nursing homes or assisted living settings. We need to focus on visit ability and universal design in new construction, but we also need to focus on financing home modifications in older homes.

On the public infrastructure projects and subdivisions that are funded and planned, NCILS hopes that communities particularly those who are able to utilize the Housing Trust Fund will prioritize accessible curb cuts, contiguous sidewalks, alleyways as well community accessible streets policies will be studied, implemented, and financed.

NCILS would encourage MDT, the Community Development Division, and Montana Housing to build partnerships in order to highlight accessible community planning in community transportation and housing planning processes. Montana must consider strategies that assist Montana communities in adopting ADA transition plans. MDT and the Community Development Division should pursue planning funding in order to accomplish this. I know that there was some discussion on which standard for accessibility in Montana communities should be enforced. NCILS would recommend using PROWAG. NCILS would also hope that pedestrian and accessibility needs could be considered in the Statewide Transit Management Plan. NCILS hopes that traffic signals and timing studies are undertaken as future community roadways are repaired. Roadways need wider shoulders on our interstates, urban roads and community connector roads where possible.

North Central recommends that partnerships be strengthened between Montana Housing, MDT and the Office of Public Instruction as well as our Montana communities so that Montana students who need to walk, bike or wheelchair ride to school may do so safely through a Safe Routes to Schools or similarly funded programs. NCILS hopes that subdivision designers and community advocates can support programs which will assist public transportation and accessible parking including enforcement of accessible aisle ways.

NCILS hopes that all transportation systems and communities work to implement disaster and emergency preparedness principles as well, including ways to incorporate disability planning in disaster planning. Thank you for allowing North Central Independent Living Services, Inc. to comment.

Response to Comment #1:

The Montana Department of Commerce's Community Development Division administers the HOME Investment Partnerships (HOME), Community Development Block Grant (CDBG), and Housing Trust Fund (HTF) programs. The Department of Public Health and Human Services administers the Emergency Solutions Grant (ESG) and Housing Opportunities for Persons With AIDS (HOPWA) programs and establishes guidelines for how these programs can assist all eligible households with improved access. Comments made regarding programs and funds that are not covered under this Consolidated Annual Performance Evaluation Report will be shared with the Commerce's Housing Division and the Montana Board of Housing staff.

Commerce and DPHHS continue to support the inclusion of accessibility and visit-ability in proposed projects to the greatest extent possible, particularly when funds are used for newly constructed facilities or projects that involve ADA improvements. Commerce and DPHHS ensure ADA requirements are carried out, which includes documenting the completion of ADA self-assessment and transition plan when utilizing CDBG and HOME funds. Facilities including shelters funded

through CDBG and HOME are required to be ADA accessible. ESG sub-grantees can choose to use a portion of their ESG allocation to help shelters meet ADA requirements if this is an identified need in their local assessment, however there is a statutory cap on how much can be spent on emergency shelters. Further, shelters are required to meet HUD reporting requirements. Additionally, case managers for both ESG and HOPWA help clients submit requests for reasonable accommodation to private landlords as well as advocate on behalf of their client's needs and help educate private landlords.

Commerce and DPHHS will continue collaborating to increase the public and private partnerships through the Consolidated Plan processes. This includes ensuring opportunities for improved program delivery that can address any potential funding or regulatory changes. While Commerce does not use HOME funds to support Tenant Based Rental Assistance, due to the level of complexity and program requirements; Commerce does support rental construction activities to provide affordable housing options across the state. Commerce and DPHHS continue this coordination through the collaborative work on the Analysis of Impediments to Fair Housing Choice and Coordinated Entry to the greatest extent possible; including working to support training that is offered to landlords across Montana.

Habitat for Humanity of Gallatin Valley
David Magistrelli, Executive Director

Comment #2:

Thanks for giving me a chance to review the HOME Investment Partnership Resale and Recapture Policy.

With many of the Habitat affiliates looking at land trusts as we stated in our application for HOME funds, we were placing the lots into a land trust I was wondering if some kind of wording about certified land trust is a viable option to ensure long-term affordability?

Another thought, and probably more of a question is as follows: We will be selling the first mortgage to MBOH at a level that will not exceed 30% of the partner family's gross monthly income. With the payment back to us from MBOH, we are setting aside those funds to be used to purchase land and or construct new houses. The new houses would be for those earning at or below the 80% AMI... More likely those at 60% of the AMI. Would the wording in this policy allow for these funds to be used that way? The lots are being placed in a land trust and therefore preserving the affordability for new families.

Also, in our case, we are limiting the maximum equity built to 1.5% per year, thereby, again providing an opportunity for building equity while preserving housing stock for low to very low wage earners.

From your understanding of this policy, would our actions be covered under it? Or, would there need to be a change in the policy that would reflect this approach?

Response to Comment #2:

To qualify as affordable housing for homeownership, the HOME Program requires the following: the housing must be single family, modest, acquired by a homebuyer whose family qualifies as low-income, be the principal residence of the family throughout the period of affordability, and meet resale or recapture requirements.

When HOME funds are invested in the construction or development of single-family homes to be sold to and occupied by low-income households, resale requirements are necessary to ensure affordability in the event the homeowners no longer use the home as their principal residence. To meet the definition of affordable housing, subsequent homeowners must qualify as low-income households having a household income at or below 80% of the area median income (AMI). This requirement does not conflict with that of a land trust but does necessitate that subsequent homeowners' incomes fall at or below 80% of the AMI.

Resale provisions allow for equity sharing. The resale provision does not restrict a grantee from using mortgage payments that it receives from homeowners to purchase and construct more affordable housing. Note that if HOME funds are used for homebuyer assistance directly to homeowners (rather than construction/development subsidy), HOME recapture provisions would apply.

The proposed actions do not conflict with the state's Annual Action Plan.

Triple Divide Consulting
Richard King

Comment #3:

Are you aware of the problem that is threatening the preservation of affordable rental housing in rural communities?

Response to Comment #3:

Preserving affordable housing is a priority for the Montana Department of Commerce. For the Goal *Preserve and Construct Affordable Housing*, planned funding allocations for HUD programs are as follows: Community Development Block Grant (CDBG) 15.14%, HOME Investment Partnerships Program (HOME) 73.37%, and Housing Trust Fund (HTF) 66.67%. In an effort to preserve and construct affordable housing, in the most recent program period, April 1, 2018 to March 31, 2019, \$4,477,919.51 were expended in CDBG and HOME funds combined. This assistance resulted in completion of 16 HOME rental units and rehabilitation of 1 CDBG funded single family home.

It is Commerce's intent to continue to support both rural and urban communities in identifying and addressing their housing needs. To assist communities with assessing needs, Commerce will continue to provide planning grants, which are anticipated to be approximately 7.97% of CDBG funding for the 2019-2020 program year. To help communities address needs such as aging rental housing, Commerce anticipates the rehabilitation of 20 rental units throughout the state (again, for the 2019-2020 program year).

Commerce encourages concerned citizens to engage rental housing stakeholders in their communities to both identify and proactively address housing needs. Specific problems facing rural communities should be considered in the planning and development phases of housing development. Commerce welcomes further discussion of prevalent or persistent problems facing rural communities in its public participation processes for the Consolidated Plan.

Comment #4

Rural Affordable Housing. As I'm sure you know, USDA Rural Development has funded many rental facilities across Montana. With my partner, I am the co-owner of Hillcrest Apartments in Chinook (which is my hometown). We opened this 12-unit structure in 1985, and the average occupancy rate is above 90%. Tenants pay 30% of their income for rent. The challenge that we face is a problem for owners of similar facilities across the state. We would like to transfer ownership of our facility which has been well maintained, but a tax reform act adopted by Congress two years after we opened Hillcrest has created a difficult problem. If we were to transfer ownership to a non-profit without any purchase price, for example, my partner and I would each owe the IRS over \$17,000 in taxes. One solution is for the non-profit to establish a charitable gift annuity, but that would require the new owner to create an annuity fund of at least \$40,000. This dilemma has caused several similar properties across the state to shut down, resulting in a loss of affordable housing in rural communities.

Response to Comment #4

Utilizing CDBG funds to create an annuity fund is not an eligible use of CDBG funds according to CDBG regulations. CDBG funds can be utilized for other eligible expenses with regards to affordable housing development and rehabilitation. However, CDBG, HOME, and HTF programs have worked with projects that were funded in part by Rural Development to acquire and rehabilitate to maintain existing affordable housing rental units. These programs can work, directly and indirectly, with non-profits to be part of the overall funding package.