



## Legislation Text

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**File #:** 23-374, **Version:** 1

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**SUBJECT:** Public Hearing - Receipt of Public Comment Regarding the U.S. Department of Housing and Urban Development (HUD) 2023 Annual Action Plan; Extension of the Public Review and Comment Period; and, Continue the Public Hearing and Anticipated Approval of the Annual Action Plan to the June 5, 2023, City Council Meeting

### REPORT IN BRIEF

This report requests that the City Council open the public hearing for the Annual Action Plan, extend the public review and comment period, and continue the public hearing to the City Council meeting of June 5, 2023.

### RECOMMENDATION

#### City Council -

- A. Open the Public Hearing to receive new public comment regarding the Draft 2023 Annual Action Plan; and,
- B. Adopt a motion continuing the Public Hearing to the June 5, 2023, City Council meeting and extending the ongoing 30-Day Public Review and Comment Period to May 15, 2023, at 5:00 p.m.

### ALTERNATIVES

- 1. Refer to staff for reconsideration of specific items (specified items to be addressed in the motion to continue); and,
- 2. Continue the Public Hearing to the June 5, 2023, City Council meeting and extend the ongoing 30-Day Public Review and Comment Period to May 15, 2023, at 5:00 p.m.

### AUTHORITY

HUD requires, per Title 24 of the Code of Federal Regulations Section 91, that participating local government jurisdictions involve citizens in the development of the Annual Action Plan and any subsequent substantial amendments; the City of Merced Citizen Participation Plan, as Amended; and, the Charter of the City of Merced, Section 405, 409, and 411 et seq.

### CITY COUNCIL PRIORITIES

As provided for in the 2022-23 Adopted Budget and 2023-24 Council Goals and Priorities.

### DISCUSSION

Scheduled Public Hearing Dates - Request for Continuance

On March 2, 2023, Housing staff published Public Notices in both the Merced Sun-Star and the Merced County Times in multiple languages that informed interested Merced residents that two Public Hearings would be held in the preparation and development of the 2023 Annual Action Plan, on March 20, 2023, and May 1, 2023. The notice also advised the public that a required 30-day Public Review and Comment Period would be held beginning March 31, 2023, and ending May 1, 2023, coinciding with the advertised second public hearing.

The HUD Annual Action Plan was also discussed at the City Council Meeting held on April 17, 2023, to consider additional project funding options. The City Council provided direction at that meeting, and it is being incorporated into the final draft of the Plan. With these changes, staff is seeking additional time for public review and comment and is therefore requesting extension of the Comment Period to May 15, 2023, and that the second public hearing be continued to June 5, 2023.

#### Public Services 15% Cap - Clarification and Related HUD Regulation

At the April 17, 2023, Council meeting, staff provided requested alternative project options and additional information for two projects reviewed at the prior meeting on March 20, 2023. The resulting final project list and funding will be presented with the Final Draft of the Annual Plan at the final public hearing.

Also at the April meeting, additional direction was received regarding public service funding. Since the meeting, staff has reviewed all pertinent regulations and confirmed with HUD with regard to the Public Services 15% Cap, more specifically, which figures are used to calculate this percentage. The following CDBG regulation defines the cap:

"24 CFR 570.201(e)(1) - Subpart C - Eligible Activities; Basic Eligible Activities; Public Services: the amount of CDBG funds used for public services shall not exceed 15 percent of such grant, except for that entitlement grants made under subpart D of this part [*staff's note: City's CDBG allocation is an entitlement grant*], the amount shall not exceed 15 percent of the grant plus 15 percent of program income, as defined in §570.500(a). For entitlement grants under subpart D of this part, compliance is based on limiting the amount of CDBG funds obligated for public service activities in each program year to an amount no greater than 15 percent of the entitlement grant made for that program year plus 15 percent of the program income received during the grantee's immediately preceding program year."

Further, per the above code section, the definition of program income is codified as:

"24 CFR 570.500(a) - Grant Administration; Definitions; Program income: program income means gross income received by the recipient [*City*] or a subrecipient directly generated from the use of CDBG funds...."

The City currently receives regular CDBG program income from payments of principal and interest on city resident home loans made using CDBG funds in past years, and occasionally, from Tax Assessor auctions involving properties financed in part with CDBG funds (i.e. recorded lien on property).

While both the Public Service 15% and Administrative 20% Cap amounts are calculated using only the CDBG allocation and program income, all other projects costs are calculated using the CDBG

allocation, program income, and carryover funds.

Carryover funds are not the same as program income. Carryover funds are uncommitted/unencumbered amounts remaining from prior year allocations that are available to commit to new projects during the next program year. The public service cap is not calculated using these funds.

In summary, based on HUD CDBG regulations, the following is the Public Services 15% Cap amount as of actual program income received by March 31, 2023, with calculation: \$1,034,373 (allocation) + \$380,809.76 (actual program income to 3/31/2023) = \$212,277.41. Therefore, based on Council direction provided on April 17, 2023, the final draft of the Annual Plan will show Project Sentinel's proposed Tenant/Landlord Counseling program to receive an award of \$49,423.

### Next Steps

The City's normal due date for submittal of the approved Annual Plan to HUD is May 15<sup>th</sup> of each year (45 days before the start of the Program Year - July 1<sup>st</sup>, annually). Submittal past this date is permitted; however, delays may affect funding awards for activities and projects. HUD has a hard deadline of August 15<sup>th</sup> for the Plan to be submitted.

## **IMPACT ON CITY RESOURCES**

No budget or appropriation action is required at this time.

## **ATTACHMENTS**

1. Presentation