

## § 92.64

(§ 92.61(b)(6)), minority and women business outreach program (§ 92.61(b)(7)) or refinancing (§ 92.61(b)(8)); or a change in the tenure type of the project or activities; or a funding increase to a project or activity of \$100,000 or 50% (whichever is greater). The HUD Field Office will notify the insular area if its program description, as amended, does not permit determinations to be made under § 92.61 (b)(4), (b)(6), (b)(7), or (b)(8), or if the level of proposed projects or eligible activities is not within the management capability demonstrated by past performance in housing and community development programs, within 30 days of receipt. The insular area will have a reasonable period of time, agreed upon mutually, to submit the necessary supporting information to revise the proposed projects or activities in its program description.

### § 92.64 Applicability of requirements to insular areas.

(a) Insular areas are subject to the same requirements in subpart E (Program Requirements), subpart F (Project Requirements), subpart K (Program Administration), and subpart L (Performance Reviews and Sanctions) of this part as participating jurisdictions, except for the following:

(1) Subpart E (Program Requirements): Administrative costs, as described in § 92.207, are eligible costs for insular areas in an amount not to exceed 15 percent of the HOME funds provided to the insular area. The matching contribution requirements in this part do not apply.

(2) Subpart K (Program Administration):

(i) Section 92.500 (The HOME Investment Trust Fund) does not apply. HUD will establish a HOME account in the United States Treasury for each insular area and the HOME funds must be used for approved activities. A local account must be established for program income. Each insular area may use either a separate local HOME account or a subsidiary account within its general fund (or other appropriate fund) as the local HOME account. HUD will recapture HOME funds in the HOME Treasury account by the amount of:

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(A) Any funds that are not committed within 24 months after the last day of the month in which HUD notifies the insular area of HUD's execution of the HOME Investment Partnership Agreement;

(B) Any funds that are not expended within five years after the last day of the month in which HUD notifies the insular area of HUD's execution of the HOME Investment Partnership Agreement; and

(C) Any penalties assessed by HUD under § 92.552.

(ii) Section 92.502 (Program disbursement and information system) applies, except that references to the HOME Investment Trust Fund mean HOME account. In addition, § 92.502(c) does not apply, and instead compliance with Treasury Circular No. 1075 (31 CFR part 205) and 24 CFR 85.21 is required.

(iii) Section 92.503 (Program income, repayments, and recaptured funds) applies, except that the funds may be retained provided the funds are used for eligible activities in accordance with the requirements of this section.

(3) Section 92.504 (Participating jurisdiction responsibilities; written agreements; on-site inspections) applies, except that the written agreement must ensure compliance with the requirements in this section.

(4) Section 92.508 (Recordkeeping) applies with respect to the records that relate to the requirements of this section.

(5) Section 92.509 (Performance reports) applies, except that a performance report is required for the fiscal year allocation only after completion of the approved projects funded by the allocation.

(6) Subpart L (Performance Reviews and Sanctions): Section 92.552 does not apply. Instead, § 92.65 applies.

(b) The requirements of subpart H (Other Federal Requirements) of this part apply as follows: § 92.357 Executive Order 12372 applies as written, and the requirements of the remaining sections which apply to participating jurisdictions are applicable to the insular areas.

(c) Subpart B (Allocation Formula), subpart C (Consortia; Designation and

Revocation as a Participating Jurisdiction), subpart D (Submission Requirements), and subpart G (Community Housing Development Organizations) of this part do not apply.

(d) Subpart A (General) applies, except that for the definitions of “commitment”, “program income”, and “subrecipient”, “participating jurisdiction” means “insular area.”

#### § 92.65 Funding sanctions.

Following notice and opportunity for informal consultation, HUD may withhold, reduce or terminate the assistance where any corrective or remedial actions taken under § 92.551 fail to remedy an insular area’s performance deficiencies, and the deficiencies are sufficiently substantial, in the judgment of HUD, to warrant sanctions.

#### § 92.66 Reallocation.

Any HOME funds which are reduced or recaptured from an insular area’s allocation and which are not used to increase the allocation amount for one or more of the remaining insular areas as provided in § 92.60 of this part, will be reallocated by HUD to the States in accordance with the requirements in subpart J for reallocating funds initially allocated to a State.

### Subpart C—Consortia; Designation and Revocation of Designation as a Participating Jurisdiction

#### § 92.100 [Reserved]

#### § 92.101 Consortia.

(a) A consortium of geographically contiguous units of general local government is a unit of general local government for purposes of this part if the requirements of this section are met.

(1) One or more members of a proposed consortium or an existing consortium whose consortium qualification terminates at the end of the fiscal year, must provide written notification to the HUD Field Office of its intent to participate as a consortium in the HOME Program for the following fiscal year. HUD shall establish the deadline for this submission.

(2) The proposed consortium must provide, at such time and in a manner

and form prescribed by HUD, the qualification documents, which will include submission of:

(i) A written certification by the State that the consortium will direct its activities to alleviation of housing problems within the State; and

(ii) Documentation which demonstrates that the consortium has executed one legally binding cooperation agreement among its members authorizing one member unit of general local government to act in a representative capacity for all member units of general local government for the purposes of this part and providing that the representative member assumes overall responsibility for ensuring that the consortium’s HOME Program is carried out in compliance with the requirements of this part.

(3) Before the end of the fiscal year in which the notice of intent and documentation are submitted, HUD must determine that a proposed consortium has sufficient authority and administrative capability to carry out the purposes of this part on behalf of its member jurisdictions. HUD will endeavor to make its determination as quickly as practicable after receiving the consortium’s documentation in order to provide the consortium an opportunity to correct its submission, if necessary. If the submission is deficient, HUD will work with the consortium to resolve the issue, but will not delay the formula allocations. HUD, at its discretion, may review the performance of an existing consortium that wishes to requalify to determine whether it continues to have sufficient authority and administrative capacity to successfully administer the program.

(b) A metropolitan city or an urban county may be a member of a consortium. A unit of general local government that is included in an urban county may be part of a consortium, only if the urban county joins the consortium. The included local government cannot join the consortium except through participation in the urban county.

(c) A non-urban county may be a member of a consortium. However, the county cannot on its own include the whole county in the consortium. A unit of local government located within the