

families, taking into consideration factors over which the State has control.

(i) *Institutional structure.* The consolidated plan must explain the institutional structure, including private industry, nonprofit organizations, and public institutions, through which the State will carry out its housing and community development plan, assessing the strengths and gaps in that delivery system. The plan must describe what the State will do to overcome gaps in the institutional structure for carrying out its strategy for addressing its priority needs.

(j) *Coordination.* The consolidated plan must describe the State's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health, and service agencies. With respect to the public entities involved, the plan must describe the means of cooperation and coordination among the State and any units of general local government in the implementation of its consolidated plan.

(k) *Low-income housing tax credit use.* The consolidated plan must describe the strategy to coordinate the Low-income Housing Tax Credit with the development of housing that is affordable to low-income and moderate-income families.

(l) *Public housing resident initiatives.* For a State that has a State housing agency administering public housing funds, the consolidated plan must describe the State's activities to encourage public housing residents to become more involved in management and participate in homeownership.

(Approved by the Office of Management and Budget under control number 2506-0117)

[60 FR 1896, Jan. 5, 1995, as amended at 61 54920, Oct. 22, 1996]

#### § 91.320 Action plan.

The action plan must include the following:

(a) *Form application.* Standard Form 424;

(b) *Resources*—(1) *Federal resources.* The consolidated plan must describe the Federal resources expected to be available to address the priority needs and specific objectives identified in the strategic plan, in accordance with

§ 91.315. These resources include grant funds and program income.

(2) *Other resources.* The consolidated plan must indicate resources from private and non-Federal public sources that are reasonably expected to be made available to address the needs identified in the plan. The plan must explain how Federal funds will leverage those additional resources, including a description of how matching requirements of the HUD programs will be satisfied. Where the State deems it appropriate, it may indicate publicly owned land or property located within the State that may be used to carry out the purposes stated in § 91.1;

(c) *Activities.* A description of the State's method for distributing funds to local governments and nonprofit organizations to carry out activities, or the activities to be undertaken by the State, using funds that are expected to be received under formula allocations (and related program income) and other HUD assistance during the program year and how the proposed distribution of funds will address the priority needs and specific objectives described in the consolidated plan;

(d) *Geographic distribution.* A description of the geographic areas of the State (including areas of minority concentration) in which it will direct assistance during the ensuing program year, giving the rationale for the priorities for allocating investment geographically;

(e) *Homeless and other special needs activities.* Activities it plans to undertake during the next year to address emergency shelter and transitional housing needs of homeless individuals and families (including subpopulations), to prevent low-income individuals and families with children (especially those with incomes below 30 percent of median) from becoming homeless, to help homeless persons make the transition to permanent housing and independent living, and to address the special needs of persons who are not homeless identified in accordance with § 91.315(d);

(f) *Other actions.* Actions it plans to take during the next year to address obstacles to meeting underserved needs, foster and maintain affordable housing (including the coordination of Low-Income Housing Tax Credits with

**§91.320**

**24 CFR Subtitle A (4-1-04 Edition)**

the development of affordable housing), remove barriers to affordable housing, evaluate and reduce lead-based paint hazards, reduce the number of poverty level families, develop institutional structure, and enhance coordination between public and private housing and social service agencies and foster public housing resident initiatives. (See §91.315 (a), (b), (f), (g), (h), (i), (j), (k), and (l).)

(g) *Program-specific requirements.* In addition, the plan must include the following specific information:

(1) The method of distribution shall contain a description of all criteria used to select applications from local governments for funding, including the relative importance of the criteria—if the relative importance has been developed. The action plan must include a description of how all CDBG resources will be allocated among all funding categories and the threshold factors and grant size limits that are to be applied. If the State intends to aid non-entitlement units of general local government in applying for guaranteed loan funds under 24 CFR part 570, subpart M, it must describe available guarantee amounts and how applications will be selected for assistance. If a State elects to allow units of general local government to carry out community revitalization strategies, the method of distribution shall reflect the State's process and criteria for approving local governments' revitalization strategies. (The statement of the method of distribution must provide sufficient information so that units of general local government will be able to understand and comment on it and be able to prepare responsive applications.)

(2) *HOME.* (i) The State shall describe other forms of investment that are not described in §92.205(b) of this subtitle.

(ii) If the State intends to use HOME funds for homebuyers, it must state the guidelines for resale or recapture, as required in §92.254 of this subtitle.

(iii) If the State intends to use HOME funds to refinance existing debt secured by multifamily housing that is being rehabilitated with HOME funds, it must state its refinancing guidelines required under 24 CFR 92.206(b). The guidelines shall describe the conditions

under which the State will refinance existing debt. At minimum, the guidelines must:

(A) Demonstrate that rehabilitation is the primary eligible activity and ensure that this requirement is met by establishing a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing.

(B) Require a review of management practices to demonstrate that disinvestment in the property has not occurred; that the long term needs of the project can be met; and that the feasibility of serving the targeted population over an extended affordability period can be demonstrated.

(C) State whether the new investment is being made to maintain current affordable units, create additional affordable units or both.

(D) Specify the required period of affordability, whether it is the minimum 15 years or longer.

(E) Specify whether the investment of HOME funds may be jurisdiction-wide or limited to a specific geographic area, such as a neighborhood identified in a neighborhood revitalization strategy under 24 CFR §91.215(e)(2) or a Federally designated Empowerment Zone or Enterprise Community.

(F) State HOME funds cannot be used to refinance multifamily loans made or insured by any Federal program, including CDBG.

(3) *ESG.* The State shall state the process for awarding grants to State recipients and a description of how the State intends to make its allocation available to units of local government and nonprofit organizations.

(4) *HOPWA.* The State shall state the method of selecting project sponsors.

(Approved by the Office of Management and Budget under control number 2506-0117)

[60 FR 1896, Jan. 5, 1995; 60 FR 4861, Jan. 25, 1995, as amended at 60 FR 16379, Mar. 30, 1995; 61 FR 48750, Sept. 16, 1996; 61 FR 54920, Oct. 22, 1996]

EFFECTIVE DATE NOTE: At 69 FR 16765, Mar. 30, 2004, §91.320(g)(2)(iv) was added, effective Apr. 29, 2004. For the convenience of the user, the added text follows:

**§91.320 Action plan.**

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(iv) If the state will receive funding under the American Dream Downpayment Initiative (ADDI) (see 24 CFR part 92, subpart M), it must include:

(A) A description of the planned use of the ADDI funds;

(B) A plan for conducting targeted outreach to residents and tenants of public and manufactured housing and to other families assisted by public housing agencies, for the purposes of ensuring that the ADDI funds are used to provide downpayment assistance for such residents, tenants, and families; and

(C) A description of the actions to be taken to ensure the suitability of families receiving ADDI funds to undertake and maintain homeownership, such as provision of housing counseling to homebuyers.

\* \* \* \* \*

#### § 91.325 Certifications.

(a) *General*—(1) *Affirmatively furthering fair housing*. Each State is required to submit a certification that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the State, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard. (See § 570.487(b)(2)(ii) of this title.)

(2) *Anti-displacement and relocation plan*. The State is required to submit a certification that it has in effect and is following a residential antidisplacement and relocation assistance plan in connection with any activity assisted with funding under the CDBG or HOME programs.

(3) *Drug-free workplace*. The State must submit a certification with regard to drug-free workplace required by 24 CFR part 24, subpart F.

(4) *Anti-lobbying*. The State must submit a certification with regard to compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.

(5) *Authority of State*. The State must submit a certification that the consolidated plan is authorized under State law and that the State possesses the legal authority to carry out the programs for which it is seeking funding,

in accordance with applicable HUD regulations.

(6) *Consistency with plan*. The State must submit a certification that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan.

(7) *Acquisition and relocation*. The State must submit a certification that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR part 24.

(8) *Section 3*. The State must submit a certification that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.

(b) *Community Development Block Grant program*. For States that seek funding under CDBG, the following certifications are required:

(1) *Citizen participation*. A certification that the State is following a detailed citizen participation plan that satisfies the requirements of § 91.115, and that each unit of general local government that is receiving assistance from the State is following a detailed citizen participation plan that satisfies the requirements of § 570.486 of this title.

(2) *Consultation with local governments*. A certification that:

(i) It has consulted with affected units of local government in the non-entitlement area of the State in determining the method of distribution of funding;

(ii) It engages or will engage in planning for community development activities;

(iii) It provides or will provide technical assistance to units of general local government in connection with community development programs;

(iv) It will not refuse to distribute funds to any unit of general local government on the basis of the particular eligible activity selected by the unit of general local government to meet its community development needs, except that a State is not prevented from establishing priorities in distributing