

## § 92.150

is unwilling or unable to carry out the provisions of this part, including failure to meet matching contribution requirements; or

(b) The jurisdiction's formula allocation falls below \$750,000 (or below \$500,000 in fiscal years in which Congress appropriates less than \$1.5 billion for this part) for three consecutive years, below \$625,000 (or below \$410,000 in fiscal years in which Congress appropriates less than \$1.5 billion for this part) for two consecutive years, or the jurisdiction does not receive a formula allocation in any one year.

(c) When HUD revokes a participating jurisdiction's designation as a participating jurisdiction, HUD will re-allocate any remaining funds in the jurisdiction's HOME Investment Trust Fund established under § 92.500 in accordance with § 92.451.

### Subpart D—Submission Requirements

#### § 92.150 Submission requirements.

In order to receive its HOME allocation, a participating jurisdiction must submit a consolidated plan in accordance with 24 CFR part 91. That part includes requirements for the content of the consolidated plan, the process of developing the consolidated plan, including citizen participation, the submission date, HUD approval, and amendments.

### Subpart E—Program Requirements

#### § 92.200 Private-public partnership.

Each participating jurisdiction must make all reasonable efforts to maximize participation by the private sector in accordance with section 221 of the Act.

#### § 92.201 Distribution of assistance.

(a) *Local.* (1) Each local participating jurisdiction must, insofar as is feasible, distribute HOME funds geographically within its boundaries and among different categories of housing need, according to the priorities of housing need identified in its approved consolidated plan.

(2) The participating jurisdiction may only invest its HOME funds in eli-

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gible projects within its boundaries, or in joint projects within the boundaries of contiguous local jurisdictions which serve residents from both jurisdictions.

(b) *State.* (1) Each State participating jurisdiction is responsible for distributing HOME funds throughout the State according to the State's assessment of the geographical distribution of the housing needs within the State, as identified in the State's approved consolidated plan. The State must distribute HOME funds to rural areas in amounts that take into account the non-metropolitan share of the State's total population and objective measures of rural housing need, such as poverty and substandard housing, as set forth in the State's approved consolidated plan. To the extent the need is within the boundaries of a participating unit of general local government, the State and the unit of general local government shall coordinate activities to address that need.

(2) A State may carry out its own HOME program without active participation of units of general local government or may distribute HOME funds to units of general local government to carry out HOME programs in which both the State and all or some of the units of general local government perform specified program functions. A unit of general local government designated by a State to receive HOME funds from a State is a State recipient.

(3)(i) A State that uses State recipients to perform program functions shall ensure that the State recipients use HOME funds in accordance with the requirements of this part and other applicable laws. The State may require the State recipient to comply with requirements established by the State or may permit the State recipient to establish its own requirements to comply with this part.

(ii) The State shall conduct such reviews and audit of its State recipients as may be necessary or appropriate to determine whether the State recipient has committed and expended the HOME funds in the United States Treasury account as required by § 92.500, and has met the requirements

of this part, particularly eligible activities, income targeting, affordability, and matching contribution requirements.

(4) A State and local participating jurisdiction may jointly fund a project within the boundaries of the local participating jurisdiction. The State may provide the HOME funds to the project or it may provide the HOME funds to the local participating jurisdiction to fund the project.

(5) A State may fund projects on Indian reservations located within the State provided that the State includes Indian reservations in its consolidated plan.

**§ 92.202 Site and neighborhood standards.**

(a) *General.* A participating jurisdiction must administer its HOME program in a manner that provides housing that is suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4), the Fair Housing Act (42 U.S.C. 3601 *et seq.*, E.O. 11063 (3 CFR, 1959–1963 Comp., p. 652), and HUD regulations issued pursuant thereto; and promotes greater choice of housing opportunities.

(b) *New rental housing.* In carrying out the site and neighborhood requirements with respect to new construction of rental housing, a participating jurisdiction is responsible for making the determination that proposed sites for new construction meet the requirements in 24 CFR 983.6(b).

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28928, May 28, 1997]

**§ 92.203 Income determinations.**

(a) The HOME program has income targeting requirements for the HOME program and for HOME projects. Therefore, the participating jurisdiction must determine each family is income eligible by determining the family's annual income.

(1) For families who are tenants in HOME-assisted housing and not receiving HOME tenant-based rental assistance, the participating jurisdiction must initially determine annual income using the method in paragraph (a)(1)(i) of this section. For subsequent

income determinations during the period of affordability, the participating jurisdiction may use any one of the following methods in accordance with § 92.252(h):

(i) Examine the source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the family.

(ii) Obtain from the family a written statement of the amount of the family's annual income and family size, along with a certification that the information is complete and accurate. The certification must state that the family will provide source documents upon request.

(iii) Obtain a written statement from the administrator of a government program under which the family receives benefits and which examines each year the annual income of the family. The statement must indicate the tenant's family size and state the amount of the family's annual income; or alternatively, the statement must indicate the current dollar limit for very low- or low-income families for the family size of the tenant and state that the tenant's annual income does not exceed this limit.

(2) For all other families, the participating jurisdiction must determine annual income by examining the source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the family.

(b) When determining whether a family is income eligible, the participating jurisdiction must use one of the following three definitions of "annual income":

(1) "Annual income" as defined at 24 CFR 5.609 (except when determining the income of a homeowner for an owner-occupied rehabilitation project, the value of the homeowner's principal residence may be excluded from the calculation of Net Family Assets); or

(2) Annual Income as reported under the Census long-form for the most recent available decennial Census. This definition includes:

(i) Wages, salaries, tips, commissions, etc.;