

consortia which must execute a new consortium agreement because their consortium qualification period ends September 30, 1996.

HUD Field Offices should provide a copy of this notice to any local government that has expressed an intent to form a consortium and to each existing consortium in their office jurisdiction. While this notice has immediate implications for the above-mentioned potential and existing consortia, it is also relevant to all other consortia since requirements for consortia, as well as for other HOME participating jurisdictions, have changed now that the Consolidated Submission for Community Planning and Development Programs (hereafter referred to as Consolidated Plan) final rule has replaced the comprehensive housing affordability strategy final rule. The Consolidated Plan final rule, published January 5, 1995, in the Federal Register (60 FR 1878), was effective February 6, 1995. It is codified at 24 CFR Part 91.

A list of consortia that are participating in the HOME Program for FY 1996 is included as Attachment A to this notice and a list of consortia which must renew their HOME consortium agreements to participate as a consortium in the HOME Program for FY 1997 through FY 1999 is included as Attachment B.

IV. Timing of Submissions

The HOME Program regulations at 24 CFR 92.101(a)(1) require that to be considered as a consortium, the proposed consortium, or a member jurisdiction in a potential consortium, is to provide written notification by March 1 to the appropriate HUD Field Office of its intent to participate as a consortium in the HOME Program for the following fiscal year. (Provided that subsequent deadlines could be met, the Field Office may accept notification at a later date.)

By March 1, 1996, (or such later date as agreed to by the applicable HUD Field Office) to be considered for an allocation of HOME funds in FY 1997, a proposed consortium, or a member jurisdiction in a potential consortium (i.e., a local government interested in forming a consortium with other local governments), or a consortium which must sign a new or amended HOME consortium agreement is to provide to the appropriate HUD Field Office written notification of its intent to participate as a consortium in the HOME Program for FY 1997. By June 30, 1996, (or a later date if agreed to by the applicable HUD Field Office so long as future deadlines -- i.e., August 1, 1996 for notification to HUD Headquarters Data Systems and Statistics Division and September 30, 1996 for approval of the consortium -- are met) a proposed consortium or a consortium which must

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sign a new agreement or which wishes to amend its current agreement must submit to the appropriate HUD Field Office the documents as required below in section VI, entitled "Procedures Localities Must Follow for Designation as a Consortium."

V. Eligibility for Forming a Consortium

Local governments that are geographically contiguous may form a consortium for purposes of receiving an allocation and participating in the HOME Program. To be considered geographically contiguous, local governments must share a boundary at more than one point. A river or other body of

water may separate them, but if there is transportation access (e.g., bridges), they may be considered contiguous. The local governments forming a consortium may be cities or urban counties that would be eligible, individually, to become participating jurisdictions in the HOME Program, or other local governments. However, a local government that is included in an urban county may be part of a HOME consortium only through the urban county, regardless of whether or not the urban county receives a HOME formula allocation. (Thus, when local governments become part of an urban county for the CDBG Program, they are part of the urban county for the HOME Program, except for metropolitan cities under joint grant agreements with urban counties as described in section VII, third paragraph of this notice.)

Further, as indicated in section 91.402 of the Consolidated Plan final rule and in section VIII of this notice, all units of general local government that are members of the consortium must be on the same program year for CDBG, HOME, Emergency Shelter Grants (ESG) and Housing Opportunities for Persons With AIDS (HOPWA). This requirement applies to all new consortia approved after February 6, 1995, and to any existing consortium that must sign a new HOME consortium agreement after February 6, 1995.

VI. Procedures Localities Must Follow for Designation as a Consortium

To be considered as a HOME consortium for FY 1997, a proposed consortium, or a consortium which must execute a new HOME consortium agreement, must provide, by June 30, 1996, the required qualification documents to the appropriate HUD Field Office, which include:

1. A written certification by the State that the consortium will direct its activities to the alleviation of housing problems within the State and

Note: The State certification may be signed by whoever has the authority to make the certification; it may be the Governor or his/her designee. If a designee signs, the signature line must indicate it is an "Authorized Official."

2. One legally binding consortium cooperation agreement that has been executed by all consortium members:

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- (a) Agreeing to cooperate to undertake or to assist in undertaking housing assistance activities for the HOME Program;
- (b) 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 the HOME Program;
- (c) Providing that the representative member (also referred to as the lead entity) assumes overall responsibility for ensuring that the consortium's HOME Program is carried out in compliance with the requirements of the HOME Program, including requirements concerning a Consolidated Plan in accordance with HUD regulations in 24 CFR Parts 92 and 91, respectively, and the requirements of 24 CFR 92.350(a)(5);

Note: The agreement must not contain a provision for veto or other restriction that would allow any member unit of local government to obstruct the implementation of the consortium's approved Consolidated Plan.

- (d) Accompanied by authorizing resolutions from the governing body of each member unit of local government, or other acceptable evidence that the chief executive officer is authorized to sign the agreement;
- (e) Signed by the chief executive officer of each member unit of local government;

Note: If an urban county is part of the consortium, only the county (not all the members of the urban county) signs the consortium agreement. However, any unit of local government that is located in but is not participating as part of the urban county, and that wishes to be included in the HOME consortium, must sign the cooperation agreement. Also, for new consortia and renewal of existing consortia which include a non-urban county, the county cannot on its own include the whole county in the consortium; any unit of local government in the non-urban county that wishes to participate as a member of the consortium must sign the HOME consortium agreement.

- (f) Containing, or accompanied by, a legal opinion from the lead entity's counsel citing applicable law and concluding that the terms and provisions of the agreement are fully authorized under State and local law and that the agreement provides full legal authority for the consortium to undertake or assist in undertaking housing assistance activities for the HOME Program;
- (g) Containing a provision requiring each member unit of local government to affirmatively further fair housing;

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- (h) Specifying the qualification period, the time for which the agreement remains in effect, and the prohibition on withdrawal from the agreement during such time, as described in section X;
- (i) Stating the program year start date for the consortium and that all units of general local government that are members of the consortium are on the same program year for CDBG, HOME, ESG and HOPWA; and
- (j) Authorizing the lead entity to amend the consortium agreement on behalf of the entire consortium to add new members to the consortium.

Note: This provision need not be in the agreement if the consortium members prefer to have all the members sign and approve additions.

VII. Joint Grant Agreements

The CDBG Program regulations at 24 CFR 570.308 allow for any urban county, and any metropolitan city located in whole or in part within that

county, to submit a joint request to HUD to approve the inclusion of the metropolitan city as part of the urban county for purposes of planning and implementing a joint community development and housing program. Each metropolitan city and urban county submitting a joint request must also have executed a cooperation agreement to undertake or to assist in the undertaking of essential community development and housing activities. Such agreement is hereafter referred to as a "Joint grant agreement." Upon HUD's approval of the joint request and joint grant agreement, the metropolitan city is considered a part of the urban county for purposes of program planning and implementation under the CDBG Program, and is treated the same as any other unit of general local government which is part of the urban county.

However, for the HOME Program, if a metropolitan city that has a joint grant agreement with an urban county for the CDBG Program wishes to be considered for funding as part of the urban county for the HOME Program, it could form a HOME consortium with the urban county. If such a city and urban county wish to form a new HOME consortium, the urban county and/or the metropolitan city must follow the procedures outlined above and submit a notice of intent by March 1, 1996, and by June 30, 1996, must submit the required documentation for designation as a "consortium."

VIII. Consolidated Program Year

For New Consortia

As required by section 91.402 of the Consolidated Plan final rule, all units of general local government that are members of a new HOME consortium approved after February 6, 1995, must be on the same program year for CDBG, HOME, ESG and HOPWA.

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For Existing Consortia

A consortium in existence on February 6, 1995, with all members having aligned program years must also be on the same program year for CDBG, HOME, ESG and HOPWA to receive its Fiscal Year 1997 funds.

A consortium in existence on February 6, 1995, in which all members do not have aligned program years will be required to bring the program years into alignment during a transition period, which is the balance of its current consortium agreement. Thus, when a new consortium agreement is signed after February 6, 1995, all members must be on the same program year for CDBG, HOME, ESG and HOPWA. This requirement applies to any consortium which must sign a new HOME consortium agreement to be considered a consortium for FY 1997.

Note: HUD will consider granting waivers concerning the requirement for aligned program years for various CDBG entitlement communities which are part of a consortium, when Field Office staff recommend such waivers for good cause.

During the transition period, the lead agency must submit, as the consortium's Consolidated Plan, a plan that complies with Subpart E of the Consolidated Plan final rule, plus (if it is a CDBG entitlement community) its non-housing Community Development Plan (in accordance with section 91.215 of the Consolidated Plan final rule). All other CDBG entitlement

communities in the consortium may submit their respective non-housing Community Development Plan (91.215(e)), an Action Plan (91.220) and the certifications (91.225(a) and (b)), in accordance with their individual program years during the transition period.

IX. Consolidated Plan

To receive FY 1997 HOME funds, a unit of general local government must submit a Consolidated Plan. A consortium is considered a unit of local government for purposes of receiving an allocation and participating in the HOME Program. Therefore, when two or more units of local government form a consortium for the purpose of receiving a formula allocation under the HOME Program, the consortium must, as a condition of funding, submit a single Consolidated Plan that covers the entire geographic area encompassed by that consortium. Where a consortium includes one or more CDBG entitlement grantees, any such grantee does not submit an individual Consolidated Plan (for the CDBG Program) in addition to the consortium's Consolidated Plan. However, as indicated in the previous section of this notice, special transition rules apply to existing consortia whose members do not have the same program year.

Note: A new consortium must submit the complete strategic plan required by sections 91.215, 91.220 and 91.225. A consortium that has previously participated in the HOME Program and previously submitted a complete strategy may submit only the Action Plan and certifications unless it is required to submit a new five-year complete strategic plan (See 91.15(b)).

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If joint grant agreement participants form a consortium for the HOME Program (see section VII), the Consolidated Plan submitted by the urban county will also serve as the Consolidated Plan for the HOME consortium because the local governments in the consortium are the same as the local governments in the urban county joint grant agreement.

X. Consortium Cooperation Agreement:

Qualification Period and Duration of Agreement

The consortium cooperation agreement must specify the fiscal years for which the consortium is to qualify to receive allocations as a participating jurisdiction in the HOME Program. The qualification period is the three Federal fiscal years following the fiscal year in which the agreement is executed (i.e., FY 1997-1999), except that if one or more urban counties are members of the consortium, the agreement may specify a lesser number of Federal fiscal years coinciding with the fiscal years remaining in an urban county's qualification period. Notwithstanding the Federal fiscal years specified, if an urban county consortium member fails to requalify as an urban county for a fiscal year included in the consortium agreement, the consortium's qualification period terminates with the last fiscal year for which the urban county qualified.

The consortium agreement remains in effect until the HOME funds from each of the Federal fiscal years of the qualification period are closed out pursuant to 24 CFR 92.507. No consortium member may withdraw from the agreement while the agreement remains in effect. A new consortium agreement must be executed for the succeeding qualification period. The consortium must notify HUD by March 1 of the year before the beginning of the new

qualification period of its intent to execute a new agreement. The new agreement is governed by the requirements of the then current Consortium Qualification notice.

A consortium agreement can be amended to add new member units of general local government for the remaining fiscal years, of the qualification period. The agreement must be amended in the fiscal year before the fiscal year(s) for which the new members are added, in accordance with the timing requirements of the then current Consortium Qualification notice. The consortium must notify the appropriate HUD Field Office by March 1, 1996 of its interest in adding new members for FY 1997 and by June 30, 1996, must provide the HUD Field Office a copy of the authorizing resolution from the new member's governing body and an amendment to the consortium cooperation agreement signed by the chief executive officer of the lead entity (if the consortium agreement authorizes the lead entity to sign on behalf of all members) and the chief executive officer of the new unit of local government, adding the new unit of local government as a member of the consortium. Any change in the make-up of the consortium should then be reported by the HUD Field Office to the Data Systems and Statistics Division, CPD, HUD Headquarters, by August 1, 1996, to allow sufficient time for data to be assembled so that the change can be reflected in the FY 1997 allocation of HOME funds.

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XI. HUD Action

For any consortium request whose notification was received by March 1, 1996, or such later date as agreed to by the HUD Field Office, and whose consortium agreement and other required documentation were received by June 30, 1996, the HUD Field Office will review the documentation to determine whether the consortium is made up of geographically contiguous units of general local government and whether the consortium has sufficient legal authority and administrative capability to carry out the purposes of the HOME Program on behalf of its member jurisdictions. Also, the Field Office will assure that all units of general local government which are to be members of the consortium are on the same program year for CDBG, HOME, ESG and HOPWA

Legal Authority

Regional or Field Office Counsel should review each consortium's request to determine if the consortium has sufficient legal authority to carry out the HOME Program.

Administrative Capacity

If the consortium includes a metropolitan city or an urban county as the lead entity, the consortium would be considered to have sufficient administrative capability to carry out the purposes of the HOME Program. If the consortium does not include a metropolitan city or an urban county, but the lead member or an existing public agency has relevant experience (e.g., successful experience in administering a CDBG or Rental Rehabilitation Program or has been administering a successful HOME Program as a State recipient), the consortium could also be considered to have sufficient administrative capability to carry out the HOME Program. On the other hand, a newly created public agency established to administer the HOME Program for a consortium would not be viewed as having sufficient administrative

capability unless it includes as its administrator(s) a person or persons with relevant experience in successfully administering programs similar to the HOME Program, such as the CDBG or Rental Rehabilitation Programs.

If the HUD Field Office is satisfied that the consortium meets the requirements for the HOME Program and has the necessary legal authority and administrative capability to carry out the HOME Program, it will approve the consortium request.

The HUD Field Office is to submit to the Data Systems and Statistics Division, CPD HUD Headquarters, with a copy to the Office of Affordable Housing Programs, CPD, HUD Headquarters, by August 1, 1996, a list of each newly approved consortium, and/or any additions to already existing consortia, indicating the members of the consortium and the locality that has been designated to act in a representative capacity for all member units of local government. This information may be sent by cc:mail to:

Bob Meehan at CPDPOST

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Copies to:

Gordon McKay at CPDPOST2
Mary Kolesar at CPDPOST2
Lynn R. Morrow at CPDPOST2

HUD will make every effort to accommodate consortia requests received by August 1, 1996, for FY 1997 HOME allocations. However, where consortia include areas that are not CDBG entitlements, it may be a problem to assemble data in time to allocate funds for FY 1997. If funds are available for allocation, the Department will not delay allocation of the funds to allow time to assemble data for such members of consortia. Thus, any such consortium for which data could not be assembled in time would not be included in the universe of units of local government eligible for consideration of a formula allocation for FY 1997. The consortium would be considered as a unit of local government eligible for a formula allocation the next fiscal year.

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Attachment A

HOME Program Approved Consortia FY 1996

| HUD Field Office | State | Consortium |
|----------------------------|-------|------------------------------|
| Massachusetts State Office | MA | Barnstable County Consortium |
| | MA | Fitchburg Consortium |
| | MA | Holyoke Consortium |
| | MA | Malden Consortium |
| | MA | Newton Consortium |
| | MA | Peabody Consortium |
| | MA | Quincy Consortium |
| Buffalo Area Office | NY | Amherst Consortium |
| | NY | Erie County Consortium |
| | NY | Jefferson County Consortium |
| | NY | Monroe County Consortium |

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| | NY | Onondaga County Consortium |
| | NY | Schenectady Consortium |
| New York State Office | NY | Dutchess County Consortium |
| | NY | Orange County Consortium |
| New Jersey State Office | NJ | Camden County Consortium |
| | NJ | Hudson County Consortium |
| | NJ | Mercer County Consortium |
| | NJ | Middlesex County Consortium |
| | NJ | Morris County Consortium |
| | NJ | Ocean County Consortium |
| | NJ | Union County Consortium |
| | NJ | Vineland Consortium |
| Pennsylvania State Office | PA | Bucks County Consortium |
| | PA | Delaware County Consortium |
| | PA | Luzerne County Consortium |
| Pittsburgh Area Office | PA | Allegheny County Consortium |
| | PA | Westmoreland County Consortium |
| | WV | Huntington Consortium |
| | WV | Parkersburg Consortium |
| | WV | Wheeling Consortium |
| Virginia State Office | VA | Charlottesville Consortium |
| | VA | Suffolk Consortium |
| Georgia State Office | GA | Cobb County Consortium |
| South Carolina State Office | SC | Sumter County Consortium |
| HUD Field Office | State | Consortium |
| North Carolina State Office | NC | Asheville Consortium |
| | NC | Durham Consortium |
| | NC | Gastonia Consortium |
| | NC | Greensboro Consortium |
| | NC | Lenoir Consortium |
| | NC | Orange County Consortium |
| | NC | Surry County Consortium |
| | NC | Winston-Salem Consortium |
| Jacksonville Area Office | FL | Brevard County Consortium |
| | FL | Escambia County Consortium |
| | FL | Palm Beach County Consortium |
| | FL | Pinellas County Consortium |
| | FL | Sarasota County Consortium |
| | FL | Volusia County Consortium |
| Illinois State Office | IL | Cook County Consortium |
| | IL | Du Page County Consortium |
| | IL | Lake County Consortium |
| | IL | St. Clair County Consortium |
| | IL | Urbana Consortium |
| Ohio State Office | OH | Cuyahoga County Consortium |
| | OH | Montgomery County Consortium |

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| | OH | Stark County Consortium |
| | OH | Warren Consortium |
| Indiana State Office | IN | Lafayette Consortium |
| | IN | South Bend Consortium |
| Wisconsin State Office | WI | Milwaukee County Consortium |
| Minnesota State Office | MN | Dakota County Consortium |
| | MN | Hennepin County Consortium |
| | MN | St. Louis County Consortium |
| Louisiana State Office | LA | Jefferson Parish Consortium |
| Oklahoma State Office | OK | Tulsa County Consortium |
| Kansas/Missouri State Office | KS | Johnson County Consortium |
| Nebraska State Office | IA | Sioux City Consortium |