

**PART 91—CONSOLIDATED SUBMISSIONS FOR COMMUNITY PLANNING AND DEVELOPMENT PROGRAMS**

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**Subpart A—General**

**§ 91.1 Purpose.**

(a) *Overall goals.* (1) The overall goal of the community planning and development programs covered by this part is to develop viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities principally for low- and moderate-income persons. The primary means towards this end is to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and non-profit organizations, in the production and operation of affordable housing.

(i) Decent housing includes assisting homeless persons to obtain appropriate housing and assisting persons at risk of becoming homeless; retention of the affordable housing stock; and increasing the availability of permanent housing in standard condition and affordable cost to low-income and moderate-income families, particularly to members of disadvantaged minorities, without discrimination on the basis of race, color, religion, sex, national origin, familial status, or disability. Decent housing also includes increasing the supply of supportive housing, which combines structural features and services needed to enable persons with special needs, including persons with HIV/AIDS and their families, to live with dignity and independence; and providing housing affordable to low-income persons accessible to job opportunities.

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(ii) A suitable living environment includes improving the safety and livability of neighborhoods; increasing access to quality public and private facilities and services; reducing the isolation of income groups within a community or geographical area through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods; restoring and preserving properties of special historic, architectural, or aesthetic value; and conservation of energy resources.

(iii) Expanded economic opportunities includes job creation and retention; establishment, stabilization and expansion of small businesses (including microbusinesses); the provision of public services concerned with employment; the provision of jobs involved in carrying out activities under programs covered by this plan to low-income persons living in areas affected by those programs and activities; availability of mortgage financing for low-income persons at reasonable rates using non-discriminatory lending practices; access to capital and credit for development activities that promote the long-term economic and social viability of the community; and empowerment and self-sufficiency opportunities for low-income persons to reduce generational poverty in federally assisted and public housing.

(2) The consolidated submission described in this part 91 requires the jurisdiction to state in one document its plan to pursue these goals for all the community planning and development programs, as well as for housing programs. It is these goals against which the plan and the jurisdiction's performance under the plan will be evaluated by HUD.

(b) *Functions of plan.* The consolidated plan serves the following functions:

(1) A planning document for the jurisdiction, which builds on a participatory process among citizens, organizations, businesses, and other stakeholders;

(2) A submission for federal funds under HUD's formula grant programs for jurisdictions;

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(3) A strategy to be followed in carrying out HUD programs; and

(4) A management tool for assessing performance and tracking results.

[60 FR 1896, Jan. 5, 1995, as amended at 71 FR 6961, Feb. 9, 2006]

### §91.2 Applicability.

(a) The following formula grant programs are covered by the consolidated plan:

(1) The Community Development Block Grant (CDBG) programs (see 24 CFR part 570, subparts D and I);

(2) The Emergency Shelter Grants (ESG) program (see 24 CFR part 576);

(3) The HOME Investment Partnerships (HOME) program (see 24 CFR part 92); and

(4) The Housing Opportunities for Persons With AIDS (HOPWA) program (see 24 CFR part 574).

(b) The following programs require either that the jurisdiction receiving funds directly from HUD have a consolidated plan that is approved by HUD or that the application for HUD funds contain a certification that the application is consistent with a HUD-approved consolidated plan:

(1) The HOPE I Public Housing Homeownership (HOPE I) program (see 24 CFR Subtitle A, Appendix A);

(2) The HOPE II Homeownership of Multifamily Units (HOPE II) program (see 24 CFR Subtitle A, Appendix B);

(3) The HOPE III Homeownership of Single Family Homes (HOPE III) program (see 24 CFR part 572);

(4) The Low-Income Housing Preservation (prepayment avoidance incentives) program, when administered by a State agency (see 24 CFR 248.177);

(5) The Supportive Housing for the Elderly (Section 202) program (see 24 CFR part 889);

(6) The Supportive Housing for Persons with Disabilities program (see 24 CFR part 890);

(7) The Supportive Housing program (see 24 CFR part 583);

(8) The Single Room Occupancy Housing (SRO) program (see 24 CFR part 882, subpart H);

(9) The Shelter Plus Care program (see 24 CFR part 582);

(10) The Community Development Block Grant program—Small Cities (see 24 CFR part 570, subpart F);

- (11) HOME program reallocations;
- (12) Revitalization of Severely Distressed Public Housing (section 24 of the United States Housing Act of 1937, (42 U.S.C. 1437 *et seq.*));
- (13) Hope for Youth: Youthbuild (see 24 CFR part 585);
- (14) The John Heinz Neighborhood Development program (see 24 CFR part 594);
- (15) The "Lead-Based Paint Hazard Reduction Program (see 42 U.S.C. 4852(o));"
- (16) Grants for Regulatory Barrier Removal Strategies and Implementation (section 1204, Housing and Community Development Act of 1992 (42 U.S.C. 12705c)); and
- (17) Competitive grants under the Housing Opportunities for Persons With AIDS (HOPWA) program (see 24 CFR part 574).

(c) Other programs do not require consistency with an approved consolidated plan. However, HUD funding allocations for the Section 8 Certificate and Voucher Programs are to be made in a way that enables participating jurisdictions to carry out their consolidated plans.

(d) The Public Housing Agency Plan submission (PHA Plan) (see 24 CFR part 903) includes a certification by the appropriate state or local official that the PHA Plan is consistent with the applicable consolidated plan for the jurisdiction in which the public housing agency is located and must describe the manner in which the applicable contents of the PHA Plan are consistent with the consolidated plan.

[60 FR 1896, Jan. 5, 1995, as amended at 60 FR 16379, Mar. 30, 1995; 64 FR 50223, Sept. 15, 1999; 71 FR 6961, Feb. 9, 2006]

### §91.5 Definitions.

The terms *Elderly person* and *HUD* are defined in 24 CFR part 5.

*Certification.* A written assertion, based on supporting evidence, that must be kept available for inspection by HUD, by the Inspector General of HUD, and by the public. The assertion shall be deemed to be accurate unless HUD determines otherwise, after inspecting the evidence and providing due notice and opportunity for comment.

*Chronically homeless person.* An unaccompanied homeless individual with a disabling condition who has been continuously homeless for a year or more, or has had at least four episodes of homelessness in the past three years. To be considered chronically homeless, a person must have been sleeping in a place not meant for human habitation (e.g., living on the streets) and/or in an emergency shelter during that time.

*Consolidated plan* or ("the plan"). The document that is submitted to HUD that serves as the comprehensive housing affordability strategy, community development plan, and submissions for funding under any of the Community Planning and Development formula grant programs (e.g., CDBG, ESG, HOME, and HOPWA), that is prepared in accordance with the process described in this part.

*Consortium.* An organization of geographically contiguous units of general local government that are acting as a single unit of general local government for purposes of the HOME program (see 24 CFR part 92).

*Cost burden.* The extent to which gross housing costs, including utility costs, exceed 30 percent of gross income, based on data available from the U.S. Census Bureau.

*Disabling condition.* For the purposes of chronic homelessness, a disabling condition is a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability, including the co-occurrence of two or more of these conditions. A disabling condition limits an individual's ability to work or perform one or more activities of daily living.

*Emergency shelter.* Any facility with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for the homeless in general or for specific populations of the homeless.

*Extremely low-income family.* Family whose income is between 0 and 30 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the median for the area on the basis of HUD's findings that such variations

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are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

*Homeless family with children.* A family composed of the following types of homeless persons: at least one parent or guardian and one child under the age of 18; a pregnant woman; or a person in the process of securing legal custody of a person under the age of 18.

*Homeless person.* A youth (17 years or younger) not accompanied by an adult (18 years or older) or an adult without children, who is homeless (not imprisoned or otherwise detained pursuant to an Act of Congress or a State law), including the following:

(1) An individual who lacks a fixed, regular, and adequate nighttime residence; and

(2) An individual who has a primary nighttime residence that is:

(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

*Homeless subpopulations.* Include but are not limited to the following categories of homeless persons: severely mentally ill only, alcohol/drug addicted only, severely mentally ill and alcohol/drug addicted, fleeing domestic violence, youth, and persons with HIV/AIDS.

*Jurisdiction.* A State or unit of general local government.

*Large family.* Family of five or more persons.

*Lead-based paint hazards* means lead-based paint hazards as defined in part 35, subpart B of this title.

*Low-income families.* Low-income families whose incomes do not exceed 50 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50 percent of the median for the

area on the basis of HUD's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

*Middle-income family.* Family whose income is between 80 percent and 95 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 95 percent of the median for the area on the basis of HUD's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. (This corresponds to the term "moderate income family" under the CHAS statute, 42 U.S.C. 12705.)

*Moderate-income family.* Family whose income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of HUD's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

*Overcrowding.* For purposes of describing relative housing needs, a housing unit containing more than one person per room, as defined by the U.S. Census Bureau, for which data are made available by the Census Bureau. (See 24 CFR 791.402(b).)

*Person with a disability.* A person who is determined to:

(1) Have a physical, mental or emotional impairment that:

(i) Is expected to be of long-continued and indefinite duration;

(ii) Substantially impedes his or her ability to live independently; and

(iii) Is of such a nature that the ability could be improved by more suitable housing conditions; or

(2) Have a developmental disability, as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001-6007); or

(3) Be the surviving member or members of any family that had been living

in an assisted unit with the deceased member of the family who had a disability at the time of his or her death.

*Poverty level family.* Family with an income below the poverty line, as defined by the Office of Management and Budget and revised annually.

*Severe cost burden.* The extent to which gross housing costs, including utility costs, exceed 50 percent of gross income, based on data available from the U.S. Census Bureau.

*State.* Any State of the United States and the Commonwealth of Puerto Rico.

*Transitional housing.* A project that is designed to provide housing and appropriate supportive services to homeless persons to facilitate movement to independent living within 24 months, or a longer period approved by HUD. For purposes of the HOME program, there is no HUD-approved time period for moving to independent living.

*Unit of general local government.* A city, town, township, county, parish, village, or other general purpose political subdivision of a State; an urban county; and a consortium of such political subdivisions recognized by HUD in accordance with the HOME program (24 CFR part 92) or the CDBG program (24 CFR part 570).

*Urban county.* See definition in 24 CFR 570.3.

[60 FR 1896, Jan. 5, 1995; 60 FR 4861, Jan. 25, 1995, as amended at 61 FR 5205, Feb. 9, 1996; 64 FR 50223, Sept. 15, 1999; 71 FR 6961, Feb. 9, 2006]

#### §91.10 Consolidated program year.

(a) Each of the following programs shall be administered by a jurisdiction on a single consolidated program year, established by the jurisdiction: CDBG, ESG, HOME, and HOPWA. Except as provided in paragraph (b) of this section, the program year shall run for a twelve month period and begin on the first calendar day of a month.

(b) Once a program year is established, the jurisdiction may either shorten or lengthen its program year to change the beginning date of the following program year, provided that it notifies HUD in writing at least two months before the date the program year would have ended if it had not been lengthened or at least two months

before the end of a proposed shortened program year.

(c) See subpart E of this part for requirements concerning program year for units of general local government that are part of a consortium.

#### §91.15 Submission date.

(a) *General.* (1) In order to facilitate continuity in its program and to provide accountability to citizens, each jurisdiction should submit its consolidated plan to HUD at least 45 days before the start of its program year. (But see §92.104 of this subtitle with respect to newly eligible jurisdictions under the HOME program.) With the exception of the August 16 date noted in paragraph (a)(2) of this section, HUD may grant a jurisdiction an extension of the submission deadline for good cause.

(2) In no event will HUD accept a submission earlier than November 15 or later than August 16 of the federal fiscal year for which the grant funds are appropriated. Failure to receive the plan by August 16 will automatically result in a loss of the CDBG funds to which the jurisdiction would otherwise be entitled.

(3) A jurisdiction may have a program year that coincides with the federal fiscal year (e.g., October 1, 2005 through September 30, 2006, for federal fiscal year 2006 funds). However, the consolidated plan may not be submitted earlier than November 15 of the federal fiscal year and HUD has the period specified in §91.500 to review the consolidated plan.

(4) See §91.20 for HUD field office authorization to grant exceptions to these provisions.

(b) *Frequency of submission.* (1) The summary of the citizen participation and consultation process, the action plan, and the certifications must be submitted on an annual basis.

(2) The housing, and homeless needs assessment, market analysis, and strategic plan must be submitted at least once every five years, or as such time agreed upon by HUD and the jurisdiction in order to facilitate orderly program management, coordinate consolidated plans with time periods used for cooperation agreements, other plans, or the availability of data.

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(3) A jurisdiction may make amendments that extend the time period covered by their plan if agreed upon by HUD.

[71 FR 6961, Feb. 9, 2006]

### § 91.20 Exceptions.

The HUD Field Office may grant a jurisdiction an exception from the submission deadline for plans and reports and from a requirement in the implementation guidelines for good cause, as determined by the field office and reported in writing to HUD Headquarters, unless the requirement is required by statute or regulation.

[71 FR 6962, Feb. 9, 2006]

## Subpart B—Citizen Participation and Consultation

### § 91.100 Consultation; local governments.

(a) *General.* (1) When preparing the consolidated plan, the jurisdiction shall consult with other public and private agencies that provide assisted housing, health services, and social and fair housing services (including those focusing on services to children, elderly persons, persons with disabilities, persons with HIV/AIDS and their families, homeless persons) during preparation of the consolidated plan.

(2) When preparing the portion of the consolidated plan describing the jurisdiction's homeless strategy, the jurisdiction shall consult with public and private agencies that provide assisted housing, health services, and social services to determine what resources are available to address the needs of any persons that are chronically homeless.

(3) When preparing the portion of its consolidated plan concerning lead-based paint hazards, the jurisdiction shall consult with state or local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned.

(4) When preparing the description of priority nonhousing community development needs, a unit of general local government must notify adjacent units

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of general local government, to the extent practicable. The nonhousing community development plan must be submitted to the state, and, if the jurisdiction is a CDBG entitlement grantee other than an urban county, to the county.

(5) The jurisdiction also should consult with adjacent units of general local government, including local government agencies with metropolitan-wide planning responsibilities, particularly for problems and solutions that go beyond a single jurisdiction.

(b) *HOPWA.* The largest city in each eligible metropolitan statistical area (EMSA) that is eligible to receive a HOPWA formula allocation must consult broadly to develop a metropolitan-wide strategy for addressing the needs of persons with HIV/AIDS and their families living throughout the EMSA. All jurisdictions within the EMSA must assist the jurisdiction that is applying for a HOPWA allocation in the preparation of the HOPWA submission.

(c) *Public housing.* The jurisdiction shall consult with the local public housing agency (PHA) concerning consideration of public housing needs and planned programs and activities. This consultation will help provide a better basis for the certification by the authorized official that the PHA Plan is consistent with the consolidated plan and the local government's description of the manner in which it will address the needs of public housing and, where necessary, the manner in which it will provide financial or other assistance to a troubled PHA to improve its operations and remove such designation. It will also help ensure that activities with regard to local drug elimination, neighborhood improvement programs, and resident programs and services, funded under a PHA's program and those funded under a program covered by the consolidated plan, are fully coordinated to achieve comprehensive community development goals. If a PHA is required to implement remedies under a Section 504 Voluntary Compliance Agreement to provide accessible units for persons with disabilities, the local jurisdiction should consult with the PHA and identify actions it may take, if any, to assist the PHA in implementing the required remedies. A

local jurisdiction may use CDBG funds for eligible activities or other funds to implement remedies required under a Section 504 Voluntary Compliance Agreement.

[60 FR 1896, Jan. 5, 1995, as amended at 71 FR 6962, Feb. 9, 2006]

**§ 91.105 Citizen participation plan; local governments.**

(a) *Applicability and adoption of the citizen participation plan.* (1) The jurisdiction is required to adopt a citizen participation plan that sets forth the jurisdiction's policies and procedures for citizen participation. (Where a jurisdiction, before February 6, 1995, adopted a citizen participation plan that complies with section 104(a)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(A)(3)) but will need to amend the citizen participation plan to comply with provisions of this section, the citizen participation plan shall be amended by the first day of the jurisdiction's program year that begins on or after 180 days following February 6, 1995.)

(2) *Encouragement of citizen participation.* (i) The citizen participation plan must provide for and encourage citizens to participate in the development of the consolidated plan, any substantial amendments to the consolidated plan, and the performance report.

(ii) These requirements are designed especially to encourage participation by low- and moderate-income persons, particularly those living in slum and blighted areas and in areas where CDBG funds are proposed to be used, and by residents of predominantly low- and moderate-income neighborhoods, as defined by the jurisdiction. A jurisdiction also is expected to take whatever actions are appropriate to encourage the participation of all its citizens, including minorities and non-English speaking persons, as well as persons with disabilities. The jurisdiction shall encourage the participation of local and regional institutions and other organizations (including businesses, developers, and community and faith-based organizations) in the process of developing and implementing the consolidated plan. The jurisdiction should also explore alternative public involvement techniques and quantitative ways

to measure efforts that encourage citizen participation in a shared vision for change in communities and neighborhoods, and the review of program performance, e.g., use of focus groups, and use of the Internet.

(iii) The jurisdiction shall encourage, in conjunction with consultation with public housing agencies, the participation of residents of public and assisted housing developments, in the process of developing and implementing the consolidated plan, along with other low-income residents of targeted revitalization areas in which the developments are located. The jurisdiction shall make an effort to provide information to the public housing agency about consolidated plan activities related to its developments and surrounding communities so that the public housing agency can make this information available at the annual public hearing required for the PHA Plan.

(3) *Citizen comment on the citizen participation plan and amendments.* The jurisdiction must provide citizens with a reasonable opportunity to comment on the original citizen participation plan and on substantial amendments to the citizen participation plan, and must make the citizen participation plan public. The citizen participation plan must be in a format accessible to persons with disabilities, upon request.

(b) *Development of the consolidated plan.* The citizen participation plan must include the following minimum requirements for the development of the consolidated plan.

(1) The citizen participation plan must require that, before the jurisdiction adopts a consolidated plan, the jurisdiction will make available to citizens, public agencies, and other interested parties information that includes the amount of assistance the jurisdiction expects to receive (including grant funds and program income) and the range of activities that may be undertaken, including the estimated amount that will benefit persons of low- and moderate-income. The citizen participation plan also must set forth the jurisdiction's plans to minimize displacement of persons and to assist any persons displaced, specifying the types and levels of assistance the jurisdiction will make available (or require others

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to make available) to persons displaced, even if the jurisdiction expects no displacement to occur. The citizen participation plan must state when and how the jurisdiction will make this information available.

(2) The citizen participation plan must require the jurisdiction to publish the proposed consolidated plan in a manner that affords citizens, public agencies, and other interested parties a reasonable opportunity to examine its contents and to submit comments. The citizen participation plan must set forth how the jurisdiction will publish the proposed consolidated plan and give reasonable opportunity to examine the contents of the proposed consolidated plan. The requirement for publishing may be met by publishing a summary of the proposed consolidated plan in one or more newspapers of general circulation, and by making copies of the proposed consolidated plan available at libraries, government offices, and public places. The summary must describe the contents and purpose of the consolidated plan, and must include a list of the locations where copies of the entire proposed consolidated plan may be examined. In addition, the jurisdiction must provide a reasonable number of free copies of the plan to citizens and groups that request it.

(3) The citizen participation plan must provide for at least one public hearing during the development of the consolidated plan. See paragraph (e) of this section for public hearing requirements, generally.

(4) The citizen participation plan must provide a period, not less than 30 days, to receive comments from citizens on the consolidated plan.

(5) The citizen participation plan shall require the jurisdiction to consider any comments or views of citizens received in writing, or orally at the public hearings, in preparing the final consolidated plan. A summary of these comments or views, and a summary of any comments or views not accepted and the reasons therefor, shall be attached to the final consolidated plan.

(c) *Amendments*—(1) *Criteria for amendment to consolidated plan.* The citizen participation plan must specify the criteria the jurisdiction will use for

determining what changes in the jurisdiction's planned or actual activities constitute a substantial amendment to the consolidated plan. (See §91.505.) It must include among the criteria for a substantial amendment changes in the use of CDBG funds from one eligible activity to another.

(2) The citizen participation plan must provide citizens with reasonable notice and an opportunity to comment on substantial amendments. The citizen participation plan must state how reasonable notice and an opportunity to comment will be given. The citizen participation plan must provide a period, not less than 30 days, to receive comments on the substantial amendment before the amendment is implemented.

(3) The citizen participation plan shall require the jurisdiction to consider any comments or views of citizens received in writing, or orally at public hearings, if any, in preparing the substantial amendment of the consolidated plan. A summary of these comments or views, and a summary of any comments or views not accepted and the reasons therefor, shall be attached to the substantial amendment of the consolidated plan.

(d) *Performance reports.* (1) The citizen participation plan must provide citizens with reasonable notice and an opportunity to comment on performance reports. The citizen participation plan must state how reasonable notice and an opportunity to comment will be given. The citizen participation plan must provide a period, not less than 15 days, to receive comments on the performance report that is to be submitted to HUD before its submission.

(2) The citizen participation plan shall require the jurisdiction to consider any comments or views of citizens received in writing, or orally at public hearings in preparing the performance report. A summary of these comments or views shall be attached to the performance report.

(e) *Public hearings.* (1) The citizen participation plan must provide for at least two public hearings per year to obtain citizens' views and to respond to proposals and questions, to be conducted at a minimum of two different stages of the program year. Together,



the hearings must address housing and community development needs, development of proposed activities, and review of program performance. To obtain the views of citizens on housing and community development needs, including priority nonhousing community development needs, the citizen participation plan must provide that at least one of these hearings is held before the proposed consolidated plan is published for comment.

(2) The citizen participation plan must state how and when adequate advance notice will be given to citizens of each hearing, with sufficient information published about the subject of the hearing to permit informed comment. (Publishing small print notices in the newspaper a few days before the hearing does not constitute adequate notice. Although HUD is not specifying the length of notice required, it would consider two weeks adequate.)

(3) The citizen participation plan must provide that hearings be held at times and locations convenient to potential and actual beneficiaries, and with accommodation for persons with disabilities. The citizen participation plan must specify how it will meet these requirements.

(4) The citizen participation plan must identify how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

(f) *Meetings.* The citizen participation plan must provide citizens with reasonable and timely access to local meetings.

(g) *Availability to the public.* The citizen participation plan must provide that the consolidated plan as adopted, substantial amendments, and the performance report will be available to the public, including the availability of materials in a form accessible to persons with disabilities, upon request. The citizen participation plan must state how these documents will be available to the public.

(h) *Access to records.* The citizen participation plan must require the jurisdiction to provide citizens, public agencies, and other interested parties with reasonable and timely access to infor-

mation and records relating to the jurisdiction's consolidated plan and the jurisdiction's use of assistance under the programs covered by this part during the preceding five years.

(i) *Technical assistance.* The citizen participation plan must provide for technical assistance to groups representative of persons of low- and moderate-income that request such assistance in developing proposals for funding assistance under any of the programs covered by the consolidated plan, with the level and type of assistance determined by the jurisdiction. The assistance need not include the provision of funds to the groups.

(j) *Complaints.* The citizen participation plan shall describe the jurisdiction's appropriate and practicable procedures to handle complaints from citizens related to the consolidated plan, amendments, and performance report. At a minimum, the citizen participation plan shall require that the jurisdiction must provide a timely, substantive written response to every written citizen complaint, within an established period of time (within 15 working days, where practicable, if the jurisdiction is a CDBG grant recipient).

(k) *Use of citizen participation plan.* The jurisdiction must follow its citizen participation plan.

(l) *Jurisdiction responsibility.* The requirements for citizen participation do not restrict the responsibility or authority of the jurisdiction for the development and execution of its consolidated plan.

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

[60 FR 1896, Jan. 5, 1995; 60 FR 10427, Feb. 24, 1995, as amended at 71 FR 6962, Feb. 9, 2006]

#### § 91.110 Consultation; states.

When preparing the consolidated plan, the state shall consult with other public and private agencies that provide assisted housing (including any state housing agency administering public housing), health services, and social and fair housing services (including those focusing on services to children, elderly persons, persons with disabilities, persons with HIV/AIDS and their families, and homeless persons) during preparation of the consolidated plan. When preparing the portion of the

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consolidated plan describing the state's homeless strategy, the state shall consult with public and private agencies that provide assisted housing, health services, and social services to determine what resources are available to address the needs of any persons that are chronically homeless. When preparing the portion of its consolidated plan concerning lead-based paint hazards, the state shall consult with state or local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned. When preparing its method of distribution of assistance under the CDBG program, a state must consult with local governments in non-entitlement areas of the state.

[71 FR 6962, Feb. 9, 2006]

### **§91.115 Citizen participation plan; States.**

(a) *Applicability and adoption of the citizen participation plan.* (1) The State is required to adopt a citizen participation plan that sets forth the State's policies and procedures for citizen participation. (Where a State, before March 6, 1995, adopted a citizen participation plan that complies with section 104(a)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(A)(3)) but will need to amend the citizen participation plan to comply with provisions of this section, the citizen participation plan shall be amended by the first day of the State's program year that begins on or after 180 days following March 6, 1995.)

(2) *Encouragement of citizen participation.* The citizen participation plan must provide for and encourage citizens to participate in the development of the consolidated plan, any substantial amendments to the consolidated plan, and the performance report. These requirements are designed especially to encourage participation by low- and moderate-income persons, particularly those living in slum and blighted areas and in areas where CDBG funds are proposed to be used and by residents of predominantly low- and moderate-income neighborhoods. A state also is expected to take whatever

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actions are appropriate to encourage the participation of all its citizens, including minorities and non-English speaking persons, as well as persons with disabilities. The state shall encourage the participation of statewide and regional institutions and other organizations (including businesses, developers, and community and faith-based organizations) that are involved with or affected by the programs or activities covered by the consolidated plan in the process of developing and implementing the consolidated plan. The state should also explore alternative public involvement techniques that encourage a shared vision of change for the community and the review of program performance, e.g., use of focus groups, and use of Internet.

(3) *Citizen and local government comment on the citizen participation plan and amendments.* The State must provide citizens and units of general local government a reasonable opportunity to comment on the original citizen participation plan and on substantial amendments to the citizen participation plan, and must make the citizen participation plan public. The citizen participation plan must be in a format accessible to persons with disabilities, upon request.

(b) *Development of the consolidated plan.* The citizen participation plan must include the following minimum requirements for the development of the consolidated plan.

(1) The citizen participation plan must require that, before the State adopts a consolidated plan, the State will make available to citizens, public agencies, and other interested parties information that includes the amount of assistance the State expects to receive and the range of activities that may be undertaken, including the estimated amount that will benefit persons of low- and moderate-income and the plans to minimize displacement of persons and to assist any persons displaced. The citizen participation plan must state when and how the State will make this information available.

(2) The citizen participation plan must require the State to publish the proposed consolidated plan in a manner that affords citizens, units of general local governments, public agencies,

and other interested parties a reasonable opportunity to examine its contents and to submit comments. The citizen participation plan must set forth how the State will publish the proposed consolidated plan and give reasonable opportunity to examine the contents of the proposed consolidated plan. The requirement for publishing may be met by publishing a summary of the proposed consolidated plan in one or more newspapers of general circulation, and by making copies of the proposed consolidated plan available at libraries, government offices, and public places. The summary must describe the contents and purpose of the consolidated plan, and must include a list of the locations where copies of the entire proposed consolidated plan may be examined. In addition, the State must provide a reasonable number of free copies of the plan to citizens and groups that request it.

(3) The citizen participation plan must provide for at least one public hearing on housing and community development needs before the proposed consolidated plan is published for comment.

(i) The citizen participation plan must state how and when adequate advance notice will be given to citizens of the hearing, with sufficient information published about the subject of the hearing to permit informed comment. (Publishing small print notices in the newspaper a few days before the hearing does not constitute adequate notice. Although HUD is not specifying the length of notice required, it would consider two weeks adequate.)

(ii) The citizen participation plan must provide that the hearing be held at a time and location convenient to potential and actual beneficiaries, and with accommodation for persons with disabilities. The citizen participation plan must specify how it will meet these requirements.

(iii) The citizen participation plan must identify how the needs of non-English speaking residents will be met in the case of a public hearing where a significant number of non-English speaking residents can be reasonably expected to participate.

(4) The citizen participation plan must provide a period, not less than 30

days, to receive comments from citizens and units of general local government on the consolidated plan.

(5) The citizen participation plan shall require the State to consider any comments or views of citizens and units of general received in writing, or orally at the public hearings, in preparing the final consolidated plan. A summary of these comments or views, and a summary of any comments or views not accepted and the reasons therefore, shall be attached to the final consolidated plan.

(c) *Amendments*—(1) *Criteria for amendment to consolidated plan.* The citizen participation plan must specify the criteria the State will use for determining what changes in the State's planned or actual activities constitute a substantial amendment to the consolidated plan. (See §91.505.) It must include among the criteria for a substantial amendment changes in the method of distribution of such funds.

(2) The citizen participation plan must provide citizens and units of general local government with reasonable notice and an opportunity to comment on substantial amendments. The citizen participation plan must state how reasonable notice and an opportunity to comment will be given. The citizen participation plan must provide a period, not less than 30 days, to receive comments on the substantial amendment before the amendment is implemented.

(3) The citizen participation plan shall require the State to consider any comments or views of citizens and units of general local government received in writing, or orally at public hearings, if any, in preparing the substantial amendment of the consolidated plan. A summary of these comments or views, and a summary of any comments or views not accepted and the reasons therefore, shall be attached to the substantial amendment of the consolidated plan.

(d) *Performance Reports.* (1) The citizen participation plan must provide citizens with reasonable notice and an opportunity to comment on performance reports. The citizen participation plan must state how reasonable notice and an opportunity to comment will be given. The citizen participation plan

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must provide a period, not less than 15 days, to receive comments on the performance report that is to be submitted to HUD before its submission.

(2) The citizen participation plan shall require the state to consider any comments or views of citizens received in writing, or orally at public hearings in preparing the performance report. A summary of these comments or views shall be attached to the performance report.

(e) *Citizen participation requirements for local governments.* The citizen participation plan must describe the citizen participation requirements for units of general local government receiving CDBG funds from the State in 24 CFR 570.486. The citizen participation plan must explain how the requirements will be met.

(f) *Availability to the public.* The citizen participation plan must provide that the consolidated plan as adopted, substantial amendments, and the performance report will be available to the public, including the availability of materials in a form accessible to persons with disabilities, upon request. The citizen participation plan must state how these documents will be available to the public.

(g) *Access to records.* The citizen participation plan must require the state to provide citizens, public agencies, and other interested parties with reasonable and timely access to information and records relating to the state's consolidated plan and the state's use of assistance under the programs covered by this part during the preceding five years.

(h) *Complaints.* The citizen participation plan shall describe the State's appropriate and practicable procedures to handle complaints from citizens related to the consolidated plan, amendments, and performance report. At a minimum, the citizen participation plan shall require that the State must provide a timely, substantive written response to every written citizen complaint, within an established period of time (within 15 working days, where practicable, if the State is a CDBG grant recipient).

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(i) *Use of citizen participation plan.* The State must follow its citizen participation plan.

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

[60 FR 1896, Jan. 5, 1995, as amended at 71 FR 6963, Feb. 9, 2006]

### Subpart C—Local Governments; Contents of Consolidated Plan

#### § 91.200 General.

(a) A complete consolidated plan consists of the information required in § 91.200 through § 91.230, submitted in accordance with instructions prescribed by HUD (including tables and narratives), or in such other format as jointly agreed upon by HUD and the jurisdiction. A comprehensive housing affordability strategy consists of the information required in § 91.200 through § 91.215(e), § 91.215(h) through § 91.215(l), § 91.220(c), § 91.220(g), § 91.225 and § 91.230.

(b) The jurisdiction shall describe the lead agency or entity responsible for overseeing the development of the plan and the significant aspects of the process by which the consolidated plan was developed, the identity of the agencies, groups, organizations, and others who participated in the process, and a description of the jurisdiction's consultations with social service, health, and child service agencies and other entities.

(c) In order to facilitate citizen review and comment each year, the plan shall contain a concise executive summary that includes the objectives and outcomes identified in the plan as well as an evaluation of past performance. The plan shall also include a concise summary of the citizen participation process, public comments, and efforts made to broaden public participation in the development of the consolidated plan.

[71 FR 6963, Feb. 9, 2006]

#### § 91.205 Housing and homeless needs assessment.

(a) *General.* The consolidated plan must provide a concise summary of the jurisdiction's estimated housing needs projected for the ensuing five-year period. Housing data included in this portion of the plan shall be based on U.S.

Census data, as provided by HUD, as updated by any properly conducted local study, or any other reliable source that the jurisdiction clearly identifies, and should reflect the consultation with social service agencies and other entities conducted in accordance with §91.100 and the citizen participation process conducted in accordance with §91.105. For a jurisdiction seeking funding on behalf of an eligible metropolitan statistical area under the HOPWA program, the needs described for housing and supportive services must address the unmet needs of low-income persons with HIV/AIDS and their families throughout the eligible metropolitan statistical area.

(b) *Categories of persons affected.* (1) The plan shall estimate the number and type of families in need of housing assistance for extremely low-income, low-income, moderate-income, and middle-income families, for renters and owners, for elderly persons, for single persons, for large families, for public housing residents, for families on the public housing and section 8 tenant-based waiting lists, for persons with HIV/AIDS and their families, for victims of domestic violence, dating violence, sexual assault, and stalking, and for persons with disabilities. The description of housing needs shall include a concise summary of the cost burden and severe cost burden, overcrowding (especially for large families), and substandard housing conditions being experienced by extremely low-income, low-income, moderate-income, and middle-income renters and owners compared to the jurisdiction as a whole. (The jurisdiction must define in its consolidated plan the terms “standard condition” and “substandard condition but suitable for rehabilitation.”)

(2) For any of the income categories enumerated in paragraph (b)(1) of this section, to the extent that any racial or ethnic group has disproportionately greater need in comparison to the needs of that category as a whole, assessment of that specific need shall be included. For this purpose, disproportionately greater need exists when the percentage of persons in a category of need who are members of a particular racial or ethnic group in a category of

need is at least 10 percentage points higher than the percentage of persons in the category as a whole.

(c) *Homeless needs.* The plan must provide a concise summary of the nature and extent of homelessness (including rural homelessness and chronically homeless persons), addressing separately the need for facilities and services for homeless individuals and homeless families with children, both sheltered and unsheltered, and homeless subpopulations, in accordance with a table prescribed by HUD. This description must include the characteristics and needs of low-income individuals and families with children (especially extremely low-income) who are currently housed but threatened with homelessness. The plan also must contain a brief narrative description of the nature and extent of homelessness by racial and ethnic group, to the extent information is available.

(d) *Other special needs.* (1) The jurisdiction shall estimate, to the extent practicable, the number of persons who are not homeless but require supportive housing, including the elderly, frail elderly, persons with disabilities (mental, physical, developmental), persons with alcohol or other drug addiction, persons with HIV/AIDS and their families, public housing residents, and any other categories the jurisdiction may specify, and describe their supportive housing needs.

(2) With respect to a jurisdiction seeking funding on behalf of an eligible metropolitan statistical area under the HOPWA program, the plan must identify the size and characteristics of the population with HIV/AIDS and their families within the eligible metropolitan statistical area it will serve.

(e) *Lead-based paint hazards.* The plan must estimate the number of housing units within the jurisdiction that are occupied by low-income families or moderate-income families that contain lead-based paint hazards, as defined in this part.

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

[60 FR 1896, Jan. 5, 1995, as amended at 61 FR 51760, Oct. 3, 1996; 71 FR 6963, Feb. 9, 2006; 73 FR 72342, Nov. 28, 2008; 75 FR 66260, Oct. 27, 2010]

## §91.210

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### §91.210 Housing market analysis.

(a) *General characteristics.* Based on information available to the jurisdiction, the plan must describe the significant characteristics of the jurisdiction's housing market, including the supply, demand, and condition and cost of housing and the housing stock available to serve persons with disabilities, and to serve other low-income persons with special needs, including persons with HIV/AIDS and their families. Data on the housing market should include, to the extent information is available, an estimate of the number of vacant or abandoned buildings and whether units in these buildings are suitable for rehabilitation. The jurisdiction must also identify and describe any areas within the jurisdiction with concentrations of racial/ethnic minorities and/or low-income families, stating how it defines the terms "area of low-income concentration" and "area of minority concentration" for this purpose. The locations and degree of these concentrations must be identified, either in a narrative or on one or more maps.

(b) *Public and assisted housing.* (1) The plan must describe and identify the public housing developments and the number of public housing units in the jurisdiction, the physical condition of such units, the restoration and revitalization needs, results from the Section 504 needs assessment (i.e., assessment of needs of tenants and applicants on waiting list for accessible units, as required by 24 CFR 8.25), and the public housing agency's strategy for improving the management and operation of such public housing and for improving the living environment of low- and moderate-income families residing in public housing. The consolidated plan must identify the public housing developments in the jurisdictions that are participating in an approved PHA Plan.

(2) The jurisdiction shall include a description of the number and targeting (income level and type of family served) of units currently assisted by local, state, or federally funded programs, and an assessment of whether any such units are expected to be lost from the assisted housing inventory for any reason, such as expiration of Section 8 contracts.

(c) *Homeless facilities.* The plan must include a brief inventory of facilities and services that meet the emergency shelter, transitional housing, permanent supportive housing, and permanent housing needs of homeless persons within the jurisdiction, including any persons that are chronically homeless. The inventory should also include (to the extent the information is available to the jurisdiction) an estimate of the percentage or number of beds and supportive services programs that are serving people that are chronically homeless.

(d) *Special need facilities and services.* The plan must describe, to the extent information is available, the facilities and services that assist persons who are not homeless but who require supportive housing, and programs for ensuring that persons returning from mental and physical health institutions receive appropriate supportive housing.

(e) *Barriers to affordable housing.* The plan must explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction are affected by public policies, particularly by policies of the jurisdiction, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment.

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

[60 FR 1896, Jan. 5, 1995, as amended at 71 FR 6964, Feb. 9, 2006]

### §91.215 Strategic plan.

(a) *General.* For the categories described in paragraphs (b), (c), (d), (e), and (f) of this section, the consolidated plan must do the following:

(1) Indicate the general priorities for allocating investment geographically within the jurisdiction (or within the EMSA for the HOPWA program) and among different activities and needs, as identified in tables prescribed by HUD.

(2) Describe the rationale for establishing the allocation priorities given to each category of priority needs, particularly among extremely low-income,

low-income, and moderate-income households;

(3) Identify any obstacles to meeting underserved needs;

(4) Summarize the priorities and specific objectives the jurisdiction intends to initiate and/or complete during the time period covered by the strategic plan and how funds that are reasonably expected to be available will be used to address identified needs. For each specific objective statement, identify proposed accomplishments and outcomes the jurisdiction hopes to achieve in quantitative terms over a specified time period (e.g., one, two, three or more years), or in other measurable terms as identified and defined by the jurisdiction. This information is to be provided in accordance with guidance to be issued by HUD.

(b) *Affordable housing.* With respect to affordable housing, the consolidated plan must include the priority housing needs table prescribed by HUD and must do the following:

(1) The affordable housing section shall describe how the characteristics of the housing market and the severity of housing problems and needs of extremely low-income, low-income, and moderate-income renters and owners identified in accordance with § 91.205 provided the rationale for establishing allocation priorities and use of funds made available for rental assistance, production of new units, rehabilitation of existing units, or acquisition of existing units (including preserving affordable housing units that may be lost from the assisted housing inventory for any reason). Household and income types may be grouped together for discussion where the analysis would apply to more than one of them. If the jurisdiction intends to use HOME funds for tenant-based assistance, it must specify local market conditions that led to the choice of that option.

(2) The affordable housing section shall include specific objectives that describe proposed accomplishments the jurisdiction hopes to achieve and must specify the number of extremely low-income, low-income, and moderate-income families to whom the jurisdiction will provide affordable housing as defined in 24 CFR 92.252 for rental hous-

ing and 24 CFR 92.254 for homeownership over a specific time period.

(c) *Public housing.* The consolidated plan must describe the manner in which the plan of the jurisdiction will address the needs of public housing, including the need to increase the number of accessible units where required by a Section 504 Voluntarily Compliance Agreement. The consolidated plan must also describe the jurisdiction's activities to encourage public housing residents to become more involved in management and participate in homeownership. If the public housing agency is designated as "troubled" by HUD under 24 CFR part 902, the jurisdiction must describe the manner in which it will provide financial or other assistance to improve its operations and remove the "troubled" designation.

(d) *Homelessness.* With respect to homelessness, the consolidated plan must include the priority homeless needs table prescribed by HUD and must describe the jurisdiction's strategy for the following:

(1) Helping low-income families avoid becoming homeless;

(2) Reaching out to homeless persons and assessing their individual needs;

(3) Addressing the emergency shelter and transitional housing needs of homeless persons; and

(4) Helping homeless persons (especially any persons that are chronically homeless) make the transition to permanent housing and independent living.

(e) *Other special needs.* With respect to special needs of the non-homeless, the consolidated plan must provide a concise summary of the priority housing and supportive service needs of persons who are not homeless but who may or may not require supportive housing (i.e., elderly, frail elderly, persons with disabilities (mental, physical, developmental), persons with alcohol or other drug addiction, persons with HIV/AIDS and their families, and public housing residents). If the jurisdiction intends to use HOME funds for tenant-based assistance to assist one or more of these subpopulations, it must specify local market conditions that led to the choice of this option.

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(f) *Nonhousing community development plan.* If the jurisdiction seeks assistance under the Community Development Block Grant (CDBG) program, the consolidated plan must provide a concise summary of the jurisdiction's priority non-housing community development needs eligible for assistance under HUD's community development programs by CDBG eligibility category, in accordance with a table prescribed by HUD. This community development component of the plan must state the jurisdiction's specific long-term and short-term community development objectives (including economic development activities that create jobs), which must be developed in accordance with the primary objective of the CDBG program to develop viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for low-income and moderate-income persons.

(g) *Neighborhood Revitalization.* Jurisdictions are encouraged to identify locally designated areas where geographically targeted revitalization efforts are carried out through multiple activities in a concentrated and coordinated manner. In addition, a jurisdiction may elect to carry out a HUD-approved neighborhood revitalization strategy that includes the economic empowerment of low-income residents with respect to one or more of its areas. If HUD approves such a strategy, the jurisdiction can obtain greater flexibility in the use of the CDBG funds in the revitalization area(s) as described in 24 CFR part 570, subpart C. This strategy must identify long-term and short-term objectives (e.g., physical improvements, social initiatives and economic empowerment), expressing them in terms of measures of outputs and outcomes the jurisdiction expects to achieve in the neighborhood through the use of HUD programs.

(h) *Barriers to affordable housing.* The consolidated plan must describe the jurisdiction's strategy to remove or ameliorate negative effects of public policies that serve as barriers to affordable housing, as identified in accordance with §91.210(e), except that, if a State requires a unit of general local government to submit a regulatory barrier as-

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assessment that is substantially equivalent to the information required under this paragraph (h), as determined by HUD, the unit of general local government may submit its assessment submitted to the State to HUD and shall be considered to have complied with this requirement.

(i) *Lead-based paint hazards.* The consolidated plan must outline actions proposed or being taken to evaluate and reduce lead-based paint hazards and increase access to housing without such health hazards, how the plan for the reduction of lead-based hazards is related to the extent of lead poisoning and hazards, and how the plan for the reduction of lead-based hazards will be integrated into housing policies and programs.

(j) *Anti-poverty strategy.* The consolidated plan must provide a concise summary of the jurisdiction's goals, programs, and policies for reducing the number of poverty-level families and how the jurisdiction's goals, programs, and policies for producing and preserving affordable housing, set forth in the housing component of the consolidated plan, will be coordinated with other programs and services for which the jurisdiction is responsible and the extent to which they will reduce (or assist in reducing) the number of poverty-level families, taking into consideration factors over which the jurisdiction has control. These policies may include the jurisdiction's policies for providing employment and training opportunities to section 3 residents pursuant to 24 CFR part 135.

(k) *Institutional structure.* (1) The consolidated plan must provide a concise summary of the institutional structure, including private industry, non-profit organizations, community and faith-based organizations, and public institutions, through which the jurisdiction will carry out its housing, homeless, and community development plan, and which assesses the strengths and gaps in that delivery system.

(2) The plan must provide a concise summary of what the jurisdiction will do to overcome gaps in the institutional structure for carrying out its strategy for addressing its priority needs.



(1) *Coordination.* The consolidated plan must provide a concise summary of the jurisdiction'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 preparation of its homeless strategy, the jurisdiction must describe efforts in addressing the needs of persons that are chronically homeless. 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 metropolitan area in the implementation of its consolidated plan. With respect to economic development, the jurisdiction should describe efforts to enhance coordination with private industry, businesses, developers, and social service agencies.

[71 FR 6964, Feb. 9, 2006]

**§ 91.220 Action plan.**

The action plan must include the following:

(a) Standard Form 424;

(b) A concise executive summary that includes the objectives and outcomes identified in the plan as well as an evaluation of past performance, a summary of the citizen participation and consultation process (including efforts to broaden public participation) (24 CFR 91.200 (b)), a summary of comments or views, and a summary of comments or views not accepted and the reasons therefore (24 CFR 91.105 (b)(5)).

(c) *Resources and objectives*—(1) *Federal resources.* The consolidated plan must provide a concise summary of the federal resources (including grant funds and program income) expected to be made available. Federal resources should include Section 8 funds made available to jurisdictions, Low-Income Housing Tax Credits, and competitive McKinney-Vento Homeless Assistance Act funds, expected to be available to address priority needs and specific objectives identified in the strategic plan.

(2) *Other resources.* The consolidated plan must indicate resources from private and state and local sources that are reasonably expected to be made available to address the needs identi-

fied 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 jurisdiction deems it appropriate, the jurisdiction may indicate publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan;

(3) *Annual objectives.* The consolidated plan must contain a summary of the annual objectives the jurisdiction expects to achieve during the forthcoming program year.

(d) *Activities to be undertaken.* The action plan must provide a description of the activities the jurisdiction will undertake during the next year to address priority needs and objectives. This description of activities shall estimate the number and type of families that will benefit from the proposed activities, the specific local objectives and priority needs (identified in accordance with § 91.215) that will be addressed by the activities using formula grant funds and program income the jurisdiction expects to receive during the program year, proposed accomplishments, and a target date for completion of the activity. This information is to be presented in the form of a table prescribed by HUD. The plan must also describe the reasons for the allocation priorities and identify any obstacles to addressing underserved needs;

(e) *Outcome measures.* Each jurisdiction must provide outcome measures for activities included in its action plan in accordance with guidance to be issued by HUD.

(f) *Geographic distribution.* A description of the geographic areas of the jurisdiction (including areas of low-income and minority concentration) in which it will direct assistance during the ensuing program year, giving the rationale for the priorities for allocating investment geographically. When appropriate, jurisdictions should estimate the percentage of funds they plan to dedicate to target areas.

(g) *Affordable housing.* The jurisdiction must specify one-year goals for the number of homeless, non-homeless, and special-needs households to be provided affordable housing using funds

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made available to the jurisdiction and one-year goals for the number of households to be provided affordable housing through activities that provide rental assistance, production of new units, rehabilitation of existing units, or acquisition of existing units using funds made available to the jurisdiction. The term affordable housing shall be as defined in 24 CFR 92.252 for rental housing and 24 CFR 92.254 for homeownership.

(h) *Public housing.* Actions it plans to take during the next year to address the needs of public housing and actions to encourage public housing residents to become more involved in management and participate in homeownership. If the public housing agency is designated as “troubled” by HUD under part 902 of this title, the jurisdiction must describe the manner in which it will provide financial or other assistance to improve its operations and remove the “troubled” designation.

(i) *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, specific action steps to end chronic homelessness, and to address the special needs of persons who are not homeless identified in accordance with §91.215(e);

(j) *Barriers to affordable housing.* Actions it plans to take during the next year to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing. Such policies, procedures and processes include, but are not limited to, land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment.

(k) *Other actions.* Actions it plans to take during the next year to address obstacles to meeting underserved needs, foster and maintain affordable

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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 (see §91.215 (a), (b), (i), (j), (k), and (l)).

(1) *Program-specific requirements—(1) CDBG.* (i) A jurisdiction must describe activities planned with respect to all CDBG funds expected to be available during the program year (including program income that will have been received before the start of the next program year), except that an amount generally not to exceed ten percent of such total available CDBG funds may be excluded from the funds for which eligible activities are described if it has been identified for the contingency of cost overruns.

(ii) CDBG funds expected to be available during the program year includes the following:

(A) Any program income that will have been received before the start of the next program year and that has not yet been programmed;

(B) Proceeds from Section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in its strategic plan;

(C) Surplus from urban renewal settlements;

(D) Grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan; and

(E) *Income from float-funded activities.* The full amount of income expected to be generated by a float-funded activity must be shown, whether or not some or all of the income is expected to be received in a future program year. To assure that citizens understand the risks inherent in undertaking float-funded activities, the recipient must specify the total amount of program income expected to be received and the month(s) and year(s) that it expects the float-funded activity to generate such program income.

(iii) An “urgent needs” activity (one that is expected to qualify under §570.208(c) of this title) may be included only if the jurisdiction identifies the activity in the action plan and certifies that the activity is designed

to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and because other financial resources are not available.

(iv) The plan shall identify the estimated amount of CDBG funds that will be used for activities that benefit persons of low- and moderate-income. The information about activities shall be in sufficient detail, including location, to allow citizens to determine the degree to which they are affected.

(2) *HOME*. (i) For HOME funds, a participating jurisdiction shall describe other forms of investment that are not described in § 92.205(b).

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

(iii) If the participating jurisdiction 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 participating jurisdictions 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(g) or a federally designated Empowerment Zone or Enterprise Community.

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

(iv) If the participating jurisdiction 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.

(3) *HOPWA*. For HOPWA funds, the jurisdiction must specify one-year goals for the number of households to be provided housing through the use of HOPWA activities for: short-term rent, mortgage, and utility assistance payments to prevent homelessness of the individual or family; tenant-based rental assistance; and units provided in housing facilities that are being developed, leased, or operated with HOPWA funds and shall identify the method of selecting project sponsors (including providing full access to grassroots faith-based and other community organizations).

[71 FR 6965, Feb. 9, 2006]

#### § 91.225 Certifications.

(a) *General*. The following certifications, satisfactory to HUD, must be included in the annual submission to HUD. (See definition of “certification” in § 91.5.)

(1) *Affirmatively furthering fair housing*. Each jurisdiction is required to submit a certification that it will affirmatively further fair housing, which means that it will conduct an analysis

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to identify impediments to fair housing choice within the jurisdiction, 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.

(2) *Anti-displacement and relocation plan.* Each jurisdiction 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) *Anti-lobbying.* The jurisdiction 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.

(4) *Authority of jurisdiction.* The jurisdiction must submit a certification that the consolidated plan is authorized under State and local law (as applicable) and that the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

(5) *Consistency with plan.* The jurisdiction must submit a certification that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan. Where the HOPWA funds are to be received by a city that is the most populous unit of general local government in an EMSA, it must obtain and keep on file certifications of consistency from the authorized public officials for each other locality in the EMSA in which housing assistance is provided.

(6) *Acquisition and relocation.* The jurisdiction 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 (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24.

(7) *Section 3.* The jurisdiction 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.

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

(1) *Citizen participation.* Each jurisdiction must certify that it is in full compliance and following a detailed citizen participation plan that satisfies the requirements of §91.105.

(2) *Community development plan.* A certification that this consolidated housing and community development plan identifies community development and housing needs and specifies both short-term and long-term community development objectives that have been developed in accordance with the primary objective of the statute authorizing the CDBG program, as described in 24 CFR 570.2, and requirements of this part and 24 CFR part 570.

(3) *Following a plan.* A certification that the jurisdiction is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.

(4) *Use of funds.* A certification that the jurisdiction has complied with the following criteria:

(i) With respect to activities expected to be assisted with CDBG funds, the Action Plan has been developed so as to give the maximum feasible priority to activities that will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight. The plan may also include CDBG-assisted activities that are certified to be designed to meet other community development needs having particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs;

(ii) The aggregate use of CDBG funds, including section 108 guaranteed loans, during a period specified by the jurisdiction, consisting of one, two, or three specific consecutive program years, shall principally benefit low- and moderate-income families in a manner that ensures that at least 70 percent of the amount is expended for activities that benefit such persons during the designated period (see 24 CFR 570.3 for definition of “CDBG funds”); and

(iii) The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if CDBG funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with CDBG funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. In addition, with respect to properties owned and occupied by moderate-income (but not low-income) families, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds if the jurisdiction certifies that it lacks CDBG funds to cover the assessment.

(5) *Excessive force.* A certification that the jurisdiction has adopted and is enforcing:

(i) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

(ii) A policy of enforcing applicable State and local laws against physically barring entrance to or exit from, a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction.

(6) *Compliance with anti-discrimination laws.* The jurisdiction must submit a certification that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601-3619), and implementing regulations.

(7) *Compliance with lead-based paint procedures.* The jurisdiction must submit a certification that its activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K, and R of this title.

(8) *Compliance with laws.* A certification that the jurisdiction will comply with applicable laws.

(c) *Emergency Shelter Grant program.* For jurisdictions that seek funding under the Emergency Shelter Grant program, the following certifications are required:

(1) In the case of assistance involving major rehabilitation or conversion, the applicant will maintain any building for which assistance is used under the ESG program as a shelter for homeless individuals and families for not less than a 10-year period;

(2) In the case of assistance involving rehabilitation less than that covered under paragraph (d)(1) of this section, the applicant will maintain any building for which assistance is used under the ESG program as a shelter for homeless individuals and families for not less than a three-year period;

(3) In the case of assistance involving essential services (including but not limited to employment, health, drug abuse, or education) or maintenance, operation, insurance, utilities and furnishings, the applicant will provide services or shelter to homeless individuals and families for the period during which the ESG assistance is provided, without regard to a particular site or structure as long as the same general population is served;

(4) Any renovation carried out with ESG assistance shall be sufficient to ensure that the building involved is safe and sanitary;

(5) It will assist homeless individuals in obtaining appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living, and other Federal, State, local, and private assistance available for such individuals;

(6) It will obtain matching amounts required under § 576.71 of this title;

(7) It will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under the ESG program, including protection against the release of the address or location of any family violence shelter project except with

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the written authorization of the person responsible for the operation of that shelter;

(8) To the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this program, in providing services assisted under the program, and in providing services for occupants of facilities assisted under the program; and

(9) It is following a current HUD-approved consolidated plan (or CHAS).

(10) A certification that the jurisdiction has established a policy for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such persons.

(d) *HOME program.* Each participating jurisdiction must provide the following certifications:

(1) If it plans to use HOME funds for tenant-based rental assistance, a certification that rental-based assistance is an essential element of its consolidated plan;

(2) A certification that it is using and will use HOME funds for eligible activities and costs, as described in §§92.205 through 92.209 of this subtitle and that it is not using and will not use HOME funds for prohibited activities, as described in §92.214 of this subtitle; and

(3) A certification that before committing funds to a project, the participating jurisdiction will evaluate the project in accordance with guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other federal assistance than is necessary to provide affordable housing.

(e) *Housing Opportunities for Persons With AIDS.* For jurisdictions that seek funding under the Housing Opportunities for Persons With AIDS program, a certification is required by the jurisdiction that:

(1) Activities funded under the program will meet urgent needs that are not being met by available public and private sources; and

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(2) Any building or structure assisted under that program shall be operated for the purpose specified in the plan:

(i) For a period of not less than 10 years in the case of assistance involving new construction, substantial rehabilitation, or acquisition of a facility; or

(ii) For a period of not less than three years in the case of assistance involving non-substantial rehabilitation or repair of a building or structure.

(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 64 FR 50224, Sept. 15, 1999; 71 FR 6967, Feb. 9, 2006; 72 FR 73493, Dec. 27, 2007]

### §91.230 Monitoring.

The plan must describe the standards and procedures that the jurisdiction will use to monitor activities carried out in furtherance of the plan and will use to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements.

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[60 FR 1896, Jan. 5, 1995; 60 FR 4861, Jan. 25, 1995]

### §91.235 Special case; abbreviated consolidated plan.

(a) *Who may submit an abbreviated plan?* A jurisdiction that is not a CDBG entitlement community under 24 CFR part 570, subpart D, and is not expected to be a participating jurisdiction in the HOME program under 24 CFR part 92, as well as an Insular Area that is a HOME or CDBG grantee, may submit an abbreviated consolidated plan that is appropriate to the types and amounts of assistance sought from HUD, instead of a full consolidated plan.

(b) *When is an abbreviated plan necessary?—(1) Jurisdiction.* When a jurisdiction that is permitted to use an abbreviated plan applies to HUD for funds under a program that requires an approved consolidated plan (see §91.2(b)), it must obtain approval of an abbreviated plan (or full consolidated plan) and submit a certification that the

housing activities are consistent with the plan.

(2) *Other applicants.* When an eligible applicant other than a jurisdiction (e.g., a public housing agency or non-profit organization) seeks to apply for funding under a program requiring certification of consistency with an approved consolidated plan, the jurisdiction—if it is permitted to use an abbreviated plan—may prepare an abbreviated plan appropriate to the project. See § 91.510.

(3) *Limitation.* For the HOME program, an abbreviated consolidated plan is permitted only with respect to re-allocations to other than participating jurisdictions (see 24 CFR part 92, subpart J), and for Insular Area grantees that submit an abbreviated consolidated plan pursuant to 24 CFR 570.440. For the CDBG program, an abbreviated plan may be submitted for the HUD-administered Small Cities program (except that an abbreviated plan may not be submitted for the HUD-administered Small Cities program in the state of Hawaii), and for Insular Area grantees pursuant to 24 CFR 570.440.

(c) *What is an abbreviated plan?*—(1) *Assessment of needs, resources, planned activities.* An abbreviated plan must contain sufficient information about needs, resources, and planned activities to address the needs to cover the type and amount of assistance anticipated to be funded by HUD.

(2) *Nonhousing community development plan.* If the jurisdiction seeks assistance under the Community Development Block Grant program, it must describe the jurisdiction's priority non-housing community development needs eligible for assistance under HUD's community development programs by CDBG eligibility category, reflecting the needs of families for each type of activity, as appropriate, in terms of dollar amounts estimated to meet the priority need for the type of activity, in accordance with a table prescribed by HUD. This community development component of the plan must state the jurisdiction's specific long-term and short-term community development objectives (including economic development activities that create jobs), which must be developed in accordance with the statutory goals described in

§ 91.1 and the primary objective of the Housing and Community Development Act of 1974, 42 U.S.C. 5301(c), of the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for low-income and moderate-income persons.

(3) *Separate application for funding.* In addition to submission of the abbreviated consolidated plan, an application must be submitted for funding is sought under a competitive program. The applicable program requirements are found in the regulations for the program and in the Notice of Funding Availability published for the applicable fiscal year. For the CDBG Small Cities program, the applicable regulations are found at 24 CFR part 570, subpart F.

(4) *Submissions, Certifications, Amendments, and Performance Reports.* An Insular Area grantee that submits an abbreviated consolidated plan under this section must comply with the submission, certification, amendment, and performance report requirements of 24 CFR 570.440. This includes certification that the grantee will affirmatively further fair housing, which means it will conduct an analysis of impediments to fair housing choice and undertake other activities required for fair housing planning, in accordance with 24 CFR 91.225(a)(1) and 570.601(a)(2).

(d) *What consultation is applicable?* The jurisdiction must make reasonable efforts to consult with appropriate public and private social service agencies regarding the needs to be served with the funding sought from HUD. The jurisdiction must attempt some consultation with the State. (Section 91.100 does not apply.)

(e) *Citizen Participation.* An Insular Area grantee that submits an abbreviated consolidated plan under this section must comply with the citizen participation requirements of 24 CFR 570.441.

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[60 FR 1896, Jan. 5, 1995; 60 FR 4861, Jan. 25, 1995; 72 FR 12535, Mar. 15, 2007]

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### §91.236 Special case; District of Columbia.

For consolidated planning purposes, the District of Columbia must follow the requirements applicable to local jurisdictions (§§91.100, 91.105, and 91.200 through 91.230). In addition, it must submit the component of the State requirements dealing with the use of Low Income Housing Tax Credits (§91.315(j)).

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## Subpart D—State Governments; Contents of Consolidated Plan

### §91.300 General.

(a) A complete consolidated plan consists of the information required in §91.300 through §91.330, submitted in accordance with instructions prescribed by HUD (including tables and narratives), or in such other format as jointly agreed upon by HUD and the state. A comprehensive housing affordability strategy consists of the information required in §§91.300 through 91.315(e), 91.315(h) through 91.315(m), 91.320(c), 91.320 (g), 91.225 and 91.330.

(b) The state shall describe the lead agency or entity responsible for overseeing the development of the plan and the significant aspects of the process by which the consolidated plan was developed; the identity of the agencies, groups, organizations, and others who participated in the process; and a description of the state's consultations with social service, health, and child service agencies and other entities.

(c) The plan shall contain a concise executive summary that includes the objectives and outcomes identified in the plan as well as an evaluation of past performance. The plan shall also contain a concise summary of the citizen participation process, public comments, and efforts made to broaden public participation in the development of the consolidated plan.

[71 FR 6967, Feb. 9, 2006]

### §91.305 Housing and homeless needs assessment.

(a) *General.* The consolidated plan must provide a concise summary of the state's estimated housing needs pro-

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jected for the ensuing five-year period. Housing data included in this portion of the plan shall be based on U.S. Census data, as provided by HUD, as updated by any properly conducted local study, or any other reliable source that the state clearly identifies and should reflect the consultation with social service agencies and other entities conducted in accordance with §91.110 and the citizen participation process conducted in accordance with §91.115. For a state seeking funding under the HOPWA program, the needs described for housing and supportive services must address the unmet needs of low-income persons with HIV/AIDS and their families in areas outside of eligible metropolitan statistical areas.

(b) *Categories of persons affected.* (1) The plan shall estimate the number and type of families in need of housing assistance for extremely low-income, low-income, moderate-income, and middle-income families, for renters and owners, for elderly persons, for single persons, for large families, for persons with HIV/AIDS and their families, for victims of domestic violence, dating violence, sexual assault, and stalking, and for persons with disabilities. The description of housing needs shall include a concise summary of the cost burden and severe cost burden, overcrowding (especially for large families), and substandard housing conditions being experienced by extremely low-income, low-income, moderate-income, and middle-income renters and owners compared to the state as a whole. (The state must define in its consolidated plan the terms "standard condition" and "substandard condition but suitable for rehabilitation.")

(2) For any of the income categories enumerated in paragraph (b)(1) of this section, to the extent that any racial or ethnic group has disproportionately greater need in comparison to the needs of that category as a whole, assessment of that specific need shall be included. For this purpose, disproportionately greater need exists when the percentage of persons in a category of need who are members of a particular racial or ethnic group in a category of need is at least 10 percentage points higher than the percentage of persons in the category as a whole.



(c) *Homeless needs.* The plan must provide a concise summary of the nature and extent of homelessness (including rural homelessness and chronically homeless persons) within the state, addressing separately the need for facilities and services for homeless individuals and homeless families with children, both sheltered and unsheltered, and homeless subpopulations, in accordance with a table prescribed by HUD. This description must include the characteristics and needs of low-income individuals and families with children (especially extremely low-income) who are currently housed but threatened with homelessness. The plan also must contain a brief narrative description of the nature and extent of homelessness by racial and ethnic group, to the extent information is available.

(d) *Other special needs.* (1) The State shall estimate, to the extent practicable, the number of persons who are not homeless but require supportive housing, including the elderly, frail elderly, persons with disabilities (mental, physical, developmental), persons with alcohol or other drug addiction, persons with HIV/AIDS and their families, and any other categories the State may specify, and describe their supportive housing needs.

(2) With respect to a State seeking assistance under the HOPWA program, the plan must identify the size and characteristics of the population with HIV/AIDS and their families within the area it will serve.

(e) *Lead-based paint hazards.* The plan must estimate the number of housing units within the State that are occupied by low-income families or moderate-income families that contain lead-based paint hazards, as defined in this part.

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[60 FR 1896, Jan. 5, 1995, as amended at 61 FR 51760, Oct. 3, 1996; 71 FR 6967, Feb. 9, 2006; 73 FR 72342, Nov. 28, 2008; 75 FR 66260, Oct. 27, 2010]

#### § 91.310 Housing market analysis.

(a) *General characteristics.* Based on data available to the State, the plan must describe the significant characteristics of the State's housing mar-

kets (including such aspects as the supply, demand, and condition and cost of housing).

(b) *Homeless facilities.* The plan must include a brief inventory of facilities and services that meet the emergency shelter, transitional housing, permanent supportive housing, and permanent housing needs of homeless persons within the state. The inventory should also include (to the extent the information is available to the state) an estimate of the percentage or number of beds and supportive services programs that are serving people that are chronically homeless.

(c) *Special need facilities and services.* The plan must describe, to the extent information is available, the facilities and services that assist persons who are not homeless but who require supportive housing, and programs for ensuring that persons returning from mental and physical health institutions receive appropriate supportive housing.

(d) *Barriers to affordable housing.* The plan must explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in the State are affected by its policies, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment.

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[60 FR 1896, Jan. 5, 1995; 60 FR 4861, Jan. 25, 1995, as amended at 71 FR 6967, Feb. 9, 2006]

#### § 91.315 Strategic plan.

(a) *General.* For the categories described in paragraphs (b), (c), (d), (e), and (f) of this section, the consolidated plan must do the following:

(1) Indicate the general priorities for allocating investment geographically within the state and among different activities and needs.

(2) Describe the rationale for establishing the allocation priorities given to each category of priority needs, particularly among extremely low-income, low-income, and moderate-income households.

(3) Identify any obstacles to meeting underserved needs.

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(4) Summarize the priorities and specific objectives the state intends to initiate and/or complete during the time period covered by the strategic plan describing how the proposed distribution of funds will address identified needs. For each specific objective statement, identify proposed accomplishments and outcomes the state hopes to achieve in quantitative terms over a specified time period (e.g., one, two, three or more years), or in other measurable terms as identified and defined by the state. This information shall be provided in accordance with guidance to be issued by HUD.

(b) *Affordable housing.* With respect to affordable housing, the consolidated plan must include the priority housing needs table prescribed by HUD and must do the following:

(1) The affordable housing section shall describe how the characteristics of the housing market and the severity of housing problems and needs of extremely low-income, low-income, and moderate-income renters and owners identified in accordance with §91.305 provided the rationale for establishing allocation priorities and use of funds made available for rental assistance, production of new units, rehabilitation of existing units, or acquisition of existing units (including preserving affordable housing units that may be lost from the assisted housing inventory for any reason). Household and income types may be grouped together for discussion where the analysis would apply to more than one of them. If the state intends to use HOME funds for tenant-based assistance, it must specify local market conditions that led to the choice of that option.

(2) The affordable housing section shall include specific objectives that describe proposed accomplishments the state hopes to achieve and must specify the number of extremely low-income, low-income, and moderate-income families to whom the state will provide affordable housing as defined in 24 CFR 92.252 for rental housing and 24 CFR 92.254 for homeownership over a specific time period.

(c) *Public housing.* With respect to public housing, the consolidated plan must do the following:

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(1) *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;

(2) *Public housing needs.* The consolidated plan must describe the manner in which the plan of the state will address the needs of public housing; and

(3) *Troubled public housing agencies.* If a public housing agency located within a state is designated as "troubled" by HUD under part 902 of this title, the strategy for the state or unit of local government in which any troubled public housing agency is located must describe the manner in which the state or unit of general local government will provide financial or other assistance to improve the public housing agency's operations and remove the "troubled" designation. A state is not required to describe the manner in which financial or other assistance is provided if the troubled public housing agency is located entirely within the boundaries of a unit of general local government that must submit a consolidated plan to HUD.

(d) *Homelessness.* With respect to homelessness, the consolidated plan must include the priority homeless needs table prescribed by HUD and must describe the state's strategy for the following:

(1) Helping low-income families avoid becoming homeless;

(2) Reaching out to homeless persons and assessing their individual needs;

(3) Addressing the emergency shelter and transitional housing needs of homeless persons; and

(4) Helping homeless persons (especially any persons that are chronically homeless) make the transition to permanent housing and independent living.

(e) *Other special needs.* With respect to supportive needs of the non-homeless, the consolidated plan must provide a concise summary of the priority housing and supportive service needs of persons who are not homeless but require supportive housing, i.e., elderly, frail elderly, persons with disabilities

(mental, physical, developmental), persons with alcohol or other drug addiction, persons with HIV/AIDS and their families, and public housing residents. If the state intends to use HOME funds for tenant-based assistance to assist one or more of these subpopulations, it must specify local market conditions that led to the choice of this option.

(f) *Nonhousing community development plan.* If the state seeks assistance under the CDBG program, the consolidated plan must concisely describe the state's priority nonhousing community development needs that affect more than one unit of general local government. These priority needs must be described by CDBG eligibility category, reflecting the needs of persons or families for each type of activity. This community development component of the plan must identify the state's specific long-term and short-term community development objectives (including economic development activities that create jobs), which must be developed in accordance with the primary objective of the CDBG program to develop viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for low-income and moderate-income persons.

(g) *Community Revitalization.* States are encouraged to identify areas where geographically targeted revitalization efforts are carried out through multiple activities in a concentrated and coordinated manner. In addition, a state may elect to allow units of general local government to carry out a community revitalization strategy that includes the economic empowerment of low-income residents, in order to obtain the additional flexibility available as provided in 24 CFR part 570, subpart I. A state must approve a local government's revitalization strategy before it may be implemented. If a state elects to allow revitalization strategies in its program, the method of distribution contained in a state's action plan pursuant to §91.320(k)(1) must reflect the state's process and criteria for approving local government's revitalization strategies. The strategy must identify the long-term and short-term objectives (e.g., physical improvements, social initiatives, and economic

empowerment), expressing them in terms of measures of outputs and outcomes that are expected through the use of HUD programs. The state's process and criteria are subject to HUD approval.

(h) *Barriers to affordable housing.* The consolidated plan must describe the state's strategy to remove or ameliorate negative effects of its policies that serve as barriers to affordable housing, as identified in accordance with §91.310.

(i) *Lead based paint.* The consolidated plan must outline the actions proposed or being taken to evaluate and reduce lead-based paint hazards, and describe how the lead-based paint hazard reduction will be integrated into housing policies and programs.

(j) *Anti-poverty strategy.* The consolidated plan must provide a concise summary of the state's goals, programs, and policies for reducing the number of poverty-level families and how the state's goals, programs, and policies for producing and preserving affordable housing, set forth in the housing component of the consolidated plan, will be coordinated with other programs such as Temporary Assistance for Needy Families as well as employment and training programs and services for which the state is responsible and the extent to which they will reduce (or assist in reducing) the number of poverty-level families, taking into consideration factors over which the state has control.

(k) *Institutional structure.* (1) The consolidated plan must provide a concise summary of the institutional structure, including private industry, nonprofit organizations, and public institutions, through which the state will carry out its housing, homeless, and community development plan, assessing the strengths and gaps in that delivery system.

(2) The plan must provide a concise summary of what the state will do to overcome gaps in the institutional structure for carrying out its strategy for addressing its priority needs.

(l) *Coordination.* The consolidated plan must provide a concise summary of the state's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health, and

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service agencies. With respect to the preparation of its homeless strategy, the state must describe efforts in addressing the needs of persons that are chronically homeless. 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. With respect to economic development, the state should describe efforts to enhance coordination with private industry, businesses, developers, and social service agencies.

(m) *Low-income housing tax credit.* 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.

[71 FR 6968, Feb. 9, 2006]

### § 91.320 Action plan.

The action plan must include the following:

(a) Standard Form 424;

(b) A concise executive summary that includes the objectives and outcomes identified in the plan as well as an evaluation of past performance, a summary of the citizen participation and consultation process (including efforts to broaden public participation) (24 CFR 91.300 (b)), a summary of comments or views, and a summary of comments or views not accepted and the reasons therefore (24 CFR 91.115 (b)(5)).

(c) *Resources and objectives*—(1) *Federal resources.* The consolidated plan must provide a concise summary of the federal resources expected to be made available. 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

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state that may be used to carry out the purposes identified in the plan;

(3) *Annual objectives.* The consolidated plan must contain a summary of the annual objectives the state expects to achieve during the forthcoming program year.

(d) *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, the reasons for the allocation priorities, how the proposed distribution of funds will address the priority needs and specific objectives described in the consolidated plan, and any obstacles to addressing underserved needs.

(e) *Outcome measures.* Each state must provide outcome measures for activities included in its action plan in accordance with guidance issued by HUD. For the CDBG program, this would include activities that are likely to be funded as a result of the implementation of the state's method of distribution.

(f) *Geographic distribution.* A description of the geographic areas of the State (including areas of low-income and minority concentration) in which it will direct assistance during the ensuing program year, giving the rationale for the priorities for allocating investment geographically. When appropriate, the state should estimate the percentage of funds they plan to dedicate to target area(s).

(g) *Affordable housing goals.* The state must specify one-year goals for the number of households to be provided affordable housing through activities that provide rental assistance, production of new units, rehabilitation of existing units, or acquisition of existing units using funds made available to the state, and one-year goals for the number of homeless, non-homeless, and special-needs households to be provided affordable housing using funds made available to the state. The term affordable housing shall be as defined in 24 CFR 92.252 for rental housing and 24 CFR 92.254 for homeownership.

(h) *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, specific action steps to end chronic homelessness, and to address the special needs of persons who are not homeless identified in accordance with §91.315(e);

(i) *Barriers to affordable housing.* Actions it plans to take during the next year to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing. Such policies, procedures, and processes include but are not limited to: land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment.

(j) *Other actions.* Actions it plans to take during the next year to implement its strategic plan and address obstacles to meeting underserved needs, foster and maintain affordable housing (including the coordination of Low-Income Housing Tax Credits with the development of affordable housing), evaluate and reduce lead-based paint hazards, reduce the number of poverty level families, develop institutional structure, enhance coordination between public and private housing and social service agencies, address the needs of public housing (including providing financial or other assistance to troubled public housing agencies), and encourage public housing residents to become more involved in management and participate in homeownership.

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

(1) *CDBG.* The action plan must set forth the state's method of distribution.

(i) 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, where applicable. The action plan must include a description of how all CDBG resources will be allocated among funding categories and the threshold factors and grant size limits that are to be applied. The method of distribution must provide sufficient information so that units of general local government will be able to understand and comment on it, understand what criteria and information their application will be judged, and be able to prepare responsive applications. The method of distribution may provide a summary of the selection criteria, provided that all criteria are summarized and the details are set forth in application manuals or other official state publications that are widely distributed to eligible applicants. HUD may monitor the method of distribution as part of its audit and review responsibilities, as provided in §570.493(a)(1), in order to determine compliance with program requirements.

(ii) If the state intends to help non-entitlement units of general local government apply 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 government's revitalization strategies.

(2) *HOME.* (i) The state shall describe other forms of investment that are not described in 24 CFR 92.205(b).

(ii) If the state intends to use HOME funds for homebuyers, it must state the guidelines for resale or recapture, as required in 24 CFR 92.254.

(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

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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 state-wide or limited to a specific geographic area, such as a community identified in a neighborhood revitalization strategy under 24 CFR 91.315(g), or a federally designated Empowerment Zone or Enterprise Community.

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

(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.

(3) ESG. The state shall identify 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 (including

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community and faith-based organizations).

(4) HOPWA. For HOPWA funds, the state must specify one-year goals for the number of households to be provided housing through the use of HOPWA activities for short-term rent; mortgage and utility assistance payments to prevent homelessness of the individual or family; tenant-based rental assistance; and units provided in housing facilities that are being developed, leased or operated with HOPWA funds, and shall identify the method of selecting project sponsors (including providing full access to grassroots faith-based and other community-based organizations).

[71 FR 6969, Feb. 9, 2006]

### § 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) *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.

(4) *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.

(5) *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.

(6) *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.

(7) *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 funding on the basis of the activities selected; and

(v) Each unit of general local government to be distributed funds will be required to identify its community development and housing needs, including

the needs of the low-income and moderate-income families, and the activities to be undertaken to meet these needs.

(3) *Community development plan.* A certification that this consolidated plan identifies community development and housing needs and specifies both short-term and long-term community development objectives that have been developed in accordance with the primary objective of the statute authorizing the CDBG program, as described in 24 CFR 570.2, and requirements of this part and 24 CFR part 570.

(4) *Use of funds.* A certification that the State has complied with the following criteria:

(i) With respect to activities expected to be assisted with CDBG funds, the action plan has been developed so as to give the maximum feasible priority to activities that will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight. The plan may also include CDBG-assisted activities that are certified to be designed to meet other community development needs having particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs;

(ii) The aggregate use of CDBG funds, including section 108 guaranteed loans, during a period specified by the State, consisting of one, two, or three specific consecutive program years, shall principally benefit low- and moderate-income families in a manner that ensures that at least 70 percent of the amount is expended for activities that benefit such persons during the designated period (see 24 CFR 570.481 for definition of "CDBG funds"); and

(iii) The State will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However,

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if CDBG funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with CDBG funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than with CDBG funds. In addition, with respect to properties owned and occupied by moderate-income (but not low-income) families, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds if the State certifies that it lacks CDBG funds to cover the assessment.

(5) *Compliance with anti-discrimination laws.* A certification that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the Fair Housing Act (42 U.S.C. 3601-3619) and implementing regulations.

(6) *Excessive force.* A certification that the State will require units of general local government that receive CDBG funds to certify that they have adopted and are enforcing:

(i) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

(ii) A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction.

(7) *Compliance with laws.* A certification that the State will comply with applicable laws.

(c) *Emergency Shelter Grant program.* For States that seek funding under the Emergency Shelter Grant program, a certification is required by the State that it will ensure that its State recipients comply with the following criteria:

(1) In the case of assistance involving major rehabilitation or conversion, it will maintain any building for which assistance is used under the ESG program as a shelter for homeless individuals and families for not less than a 10-year period;

(2) In the case of assistance involving rehabilitation less than that covered under paragraph (d)(1) of this section, it will maintain any building for which assistance is used under the ESG program as a shelter for homeless individuals and families for not less than a three-year period;

(3) In the case of assistance involving essential services (including but not limited to employment, health, drug abuse, or education) or maintenance, operation, insurance, utilities and furnishings, it will provide services or shelter to homeless individuals and families for the period during which the ESG assistance is provided, without regard to a particular site or structure as long as the same general population is served;

(4) Any renovation carried out with ESG assistance shall be sufficient to ensure that the building involved is safe and sanitary;

(5) It will assist homeless individuals in obtaining appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living, and other Federal, State, local, and private assistance available for such individuals;

(6) It will obtain matching amounts required under § 576.71 of this title;

(7) It will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under the ESG program, including protection against the release of the address or location of any family violence shelter project except with the written authorization of the person responsible for the operation of that shelter;

(8) To the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this program, in providing services assisted under the program, and in providing services for occupants of facilities assisted under the program; and

(9) It is following a current HUD-approved consolidated plan.



(10) A certification that the state has established a policy for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care, or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such persons.

(d) *HOME program.* Each State must provide the following certifications:

(1) If it plans to use program funds for tenant-based rental assistance, a certification that rental-based assistance is an essential element of its consolidated plan;

(2) A certification that it is using and will use HOME funds for eligible activities and costs, as described in §§ 92.205 through 92.209 of this subtitle and that it is not using and will not use HOME funds for prohibited activities, as described in § 92.214 of this subtitle; and

(3) A certification that before committing funds to a project, the State or its recipients will evaluate the project in accordance with guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other federal assistance than is necessary to provide affordable housing.

(e) *Housing Opportunities for Persons With AIDS.* For States that seek funding under the Housing Opportunities for Persons With AIDS program, a certification is required by the State that:

(1) Activities funded under the program will meet urgent needs that are not being met by available public and private sources; and

(2) Any building or structure purchased, leased, rehabilitated, renovated, or converted with assistance under that program shall be operated for not less than 10 years specified in the plan, or for a period of not less than three years in cases involving non-substantial rehabilitation or repair of a building or structure.

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

[60 FR 1896, Jan. 5, 1995, as amended at 71 FR 6970, Feb. 9, 2006; 72 FR 73493, Dec. 27, 2007]

#### § 91.330 Monitoring.

The consolidated plan must describe the standards and procedures that the

State will use to monitor activities carried out in furtherance of the plan and will use to ensure long-term compliance with requirements of the programs involved, including the comprehensive planning requirements.

(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]

### Subpart E—Consortia; Contents of Consolidated Plan

#### § 91.400 Applicability.

This subpart applies to HOME program consortia, as defined in § 91.5 (see 24 CFR part 92). Units of local government that participate in a consortium must participate in submission of a consolidated plan for the consortium, prepared in accordance with this subpart. CDBG entitlement communities that are members of a consortium must provide additional information for the consolidated plan, as described in this subpart.

#### § 91.401 Citizen participation plan.

The consortium must have a citizen participation plan that complies with the requirements of § 91.105. If the consortium contains one or more CDBG entitlement communities, the consortium's citizen participation plan must provide for citizen participation within each CDBG entitlement community, either by the consortium or by the CDBG entitlement community, in a manner sufficient for the CDBG entitlement community to certify that it is following a citizen participation plan.

#### § 91.402 Consolidated program year.

(a) *Same program year for consortia members.* All units of general local government that are members of a consortium must be on the same program year for CDBG, HOME, ESG, and HOPWA. The program year shall run for a twelve month period and begin on the first calendar day of a month.

(b) *Transition period.* (1) A consortium in existence on February 6, 1995, with all members having aligned program years must comply with paragraph (a)

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of this section. A consortium in existence on February 6, 1995, in which all members do not have aligned program years will be allowed a transition period during the balance of its current consortium agreement to bring the program year for all members into alignment.

(2) During any such transition period, the lead agency (if it is a CDBG entitlement community) must submit, as its consolidated plan, a plan that complies with this subpart for the consortium, plus its nonhousing Community Development Plan (in accordance with §91.215). All other CDBG entitlement communities in the consortium may submit their respective nonhousing Community Development Plans (§91.215(e)), an Action Plan (§91.220) and the certifications (§91.425(a) and (b)) in accordance with their individual program years.

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

[60 FR 1896, Jan. 5, 1995; 60 FR 10427, Feb. 24, 1995]

### §91.405 Housing and homeless needs assessment.

Housing and homeless needs must be described in the consolidated plan in accordance with the provisions of §91.205 for the entire consortium. In addition to describing these needs for the entire consortium, the consolidated plan may also describe these needs for individual communities that are members of the consortium.

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

### §91.410 Housing market analysis.

Housing market analysis must be described in the consolidated plan in accordance with the provisions of §91.210 for the entire consortium. In addition to describing market conditions for the entire consortium, the consolidated plan may also describe these conditions for individual communities that are members of the consortium.

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

### §91.415 Strategic plan.

Strategies and priority needs must be described in the consolidated plan in

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accordance with the provisions of §91.215 for the entire consortium. The consortium is not required to submit a nonhousing Community Development Plan; however, if the consortium includes CDBG entitlement communities, the consolidated plan must include the nonhousing Community Development Plans of the CDBG entitlement community members of the consortium. The consortium must set forth its priorities for allocating housing (including CDBG and ESG, where applicable) resources geographically within the consortium, describing how the consolidated plan will address the needs identified (in accordance with §91.405), describing the reasons for the consortium's allocation priorities, and identifying any obstacles there are to addressing underserved needs.

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

### §91.420 Action plan.

(a) *Form application.* The action plan for the consortium must include a Standard Form 424 for the consortium for the HOME program. Each entitlement jurisdiction also must submit a Standard Form 424 for its funding under the CDBG program and, if applicable, the ESG and HOPWA programs.

(b) *Description of resources and activities.* The action plan must describe the resources to be used and activities to be undertaken to pursue its strategic plan. The consolidated plan must provide this description for all resources and activities within the entire consortium as a whole, as well as a description for each individual community that is a member of the consortium.

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

### §91.425 Certifications.

(a) *Consortium certifications*—(1) *General*—(i) *Affirmatively furthering fair housing.* Each consortium must certify that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the area, 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.

(ii) *Anti-displacement and relocation plan.* Each consortium must certify 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 HOME or CDBG program.

(iii) *Anti-lobbying.* The consortium 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.

(iv) *Authority of consortium.* The consortium must submit a certification that the consolidated plan is authorized under State and local law (as applicable) and that the consortium possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

(v) *Consistency with plan.* The consortium must certify that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan.

(vi) *Acquisition and relocation.* The consortium must certify 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 (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24.

(vii) *Section 3.* The consortium must certify 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.

(2) *HOME program.* The consortium must provide the following certifications:

(i) If it plans to use HOME funds for tenant-based rental assistance, a certification that rental-based assistance is an essential element of its consolidated plan;

(ii) That it is using and will use HOME funds for eligible activities and costs, as described in §§ 92.205 through 92.209 of this subtitle and that it is not using and will not use HOME funds for prohibited activities, as described in § 92.214 of this subtitle; and

(iii) That before committing funds to a project, the consortium will evaluate the project in accordance with guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other federal assistance than is necessary to provide affordable housing.

(b) *CDBG entitlement community certifications.* A CDBG entitlement community that is a member of a consortium must submit the certifications required by § 91.225 (a) and (b), and, if applicable, of § 91.225 (c) and (d).

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

[60 FR 1896, Jan. 5, 1995, as amended at 72 FR 73493, Dec. 27, 2007]

#### § 91.430 Monitoring.

The consolidated plan must describe the standards and procedures that the consortium will use to monitor activities carried out in furtherance of the plan and will use to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements.

(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]

### Subpart F—Other General Requirements

#### § 91.500 HUD approval action.

(a) *General.* HUD will review the plan upon receipt. The plan will be deemed approved 45 days after HUD receives the plan, unless before that date HUD has notified the jurisdiction that the plan is disapproved.

(b) *Standard of review.* HUD may disapprove a plan or a portion of a plan if it is inconsistent with the purposes of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12703), if it is substantially incomplete, or, in the case of certifications applicable to the CDBG program under §§ 91.225 (a) and (b) or 91.325 (a) and (b), if it is not satisfactory to the Secretary in accordance with §§ 570.304, 570.429(g), or 570.485(c) of this title, as applicable. The following are examples of consolidated plans that are substantially incomplete:

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(1) A plan that was developed without the required citizen participation or the required consultation;

(2) A plan that fails to satisfy all the required elements in this part; and

(3) A plan for which a certification is rejected by HUD as inaccurate, after HUD has inspected the evidence and provided due notice and opportunity to the jurisdiction for comment; and

(4) A plan that does not include a description of the manner in which the unit of general local government or state will provide financial or other assistance to a public housing agency if the public housing agency is designated as "troubled" by HUD.

(c) *Written notice of disapproval.* Within 15 days after HUD notifies a jurisdiction that it is disapproving its plan, it must inform the jurisdiction in writing of the reasons for disapproval and actions that the jurisdiction could take to meet the criteria for approval. Disapproval of a plan with respect to one program does not affect assistance distributed on the basis of a formula under other programs.

(d) *Revisions and resubmission.* The jurisdiction may revise or resubmit a plan within 45 days after the first notification of disapproval. HUD must respond to approve or disapprove the plan within 30 days of receiving the revisions or resubmission.

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

[60 FR 1896, Jan. 5, 1995, as amended at 60 FR 56909, Nov. 9, 1995; 61 FR 54920, Oct. 22, 1996; 71 FR 6970, Feb. 9, 2006]

### §91.505 Amendments to the consolidated plan.

(a) *Amendments to the plan.* The jurisdiction shall amend its approved plan whenever it makes one of the following decisions:

(1) To make a change in its allocation priorities or a change in the method of distribution of funds;

(2) To carry out an activity, using funds from any program covered by the consolidated plan (including program income), not previously described in the action plan; or

(3) To change the purpose, scope, location, or beneficiaries of an activity.

(b) *Criteria for substantial amendment.* The jurisdiction shall identify in its

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citizen participation plan the criteria it will use for determining what constitutes a substantial amendment. It is these substantial amendments that are subject to a citizen participation process, in accordance with the jurisdiction's citizen participation plan. (See §§91.105 and 91.115.)

(c) *Submission to HUD.* (1) Upon completion, the jurisdiction must make the amendment public and must notify HUD that an amendment has been made. The jurisdiction may submit a copy of each amendment to HUD as it occurs, or at the end of the program year. Letters transmitting copies of amendments must be signed by the official representative of the jurisdiction authorized to take such action.

(2) See subpart B of this part for the public notice procedures applicable to substantial amendments. For any amendment affecting the HOPWA program that would involve acquisition, rehabilitation, conversion, lease, repair or construction of properties to provide housing, an environmental review of the revised proposed use of funds must be completed by HUD in accordance with 24 CFR 574.510.

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

### §91.510 Consistency determinations.

(a) *Applicability.* For competitive programs, a certification of consistency of the application with the approved consolidated plan for the jurisdiction may be required, whether the applicant is the jurisdiction or another applicant.

(b) *Certifying authority.* (1) The certification must be obtained from the unit of general local government if the project will be located in a unit of general local government that: is required to have a consolidated plan, is authorized to use an abbreviated consolidated plan but elects to prepare and has submitted a full consolidated plan, or is authorized to use an abbreviated consolidated plan and is applying for the same program as the applicant pursuant to the same Notice of Funding Availability (and therefore has or will have an abbreviated consolidated plan for the fiscal year for that program).

(2) If the project will not be located in a unit of general local government, the certification may be obtained from

the State or, if the project will be located in a unit of general local government authorized to use an abbreviated consolidated plan, from the unit of general local government if it is willing to prepare such a plan.

(3) Where the recipient of a HOPWA grant is a city that is the most populous unit of general local government in an EMSA, it also must obtain and keep on file certifications of consistency from such public officials for each other locality in the EMSA in which housing assistance is provided.

(c) *Meaning.* A jurisdiction's certification that an application is consistent with its consolidated plan means the jurisdiction's plan shows need, the proposed activities are consistent with the jurisdiction's strategic plan, and the location of the proposed activities is consistent with the geographic areas specified in the plan. The jurisdiction shall provide the reasons for the denial when it fails to provide a certification of consistency.

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

#### § 91.515 Funding determinations by HUD.

(a) *Formula funding.* The action plan submitted by the jurisdiction will be considered as the application for the CDBG, HOME, ESG, and HOPWA formula grant programs. The Department will make its funding award determination after reviewing the plan submission in accordance with § 91.500.

(b) *Other funding.* For other funding, the jurisdiction must still respond to Notices of Funding Availability for the individual programs in order to receive funding.

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

#### § 91.520 Performance reports.

(a) *General.* Each jurisdiction that has an approved consolidated plan shall annually review and report, in a form prescribed by HUD, on the progress it has made in carrying out its strategic plan and its action plan. The performance report must include a description of the resources made available, the investment of available resources, the geographic distribution and location of

investments, the families and persons assisted (including the racial and ethnic status of persons assisted), actions taken to affirmatively further fair housing, and other actions indicated in the strategic plan and the action plan. This performance report shall be submitted to HUD within 90 days after the close of the jurisdiction's program year.

(b) *Affordable housing.* The report shall include an evaluation of the jurisdiction's progress in meeting its specific objective of providing affordable housing, including the number and types of families served. This element of the report must include the number of extremely low-income, low-income, moderate-income, and middle-income persons served.

(c) *CDBG.* For CDBG recipients, the report shall include a description of the use of CDBG funds during the program year and an assessment by the jurisdiction of the relationship of that use to the priorities and specific objectives identified in the plan, giving special attention to the highest priority activities that were identified. This element of the report must specify the nature of and reasons for any changes in its program objectives and indications of how the jurisdiction would change its programs as a result of its experiences. This element of the report also must include the number of extremely low-income, low-income, and moderate-income persons served by each activity where information on income by family size is required to determine the eligibility of the activity.

(d) *HOME.* For HOME participating jurisdictions, the report shall include the results of on-site inspections of affordable rental housing assisted under the program to determine compliance with housing codes and other applicable regulations, an assessment of the jurisdiction's affirmative marketing actions and outreach to minority-owned and women-owned businesses, and data on the amount and use of program income for projects, including the number of projects and owner and tenant characteristics.

(e) *HOPWA.* For jurisdictions receiving funding under the Housing Opportunities for Persons With AIDS program, the report must include the

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number of individuals assisted and the types of assistance provided.

(f) *Evaluation by HUD.* HUD shall review the performance report and determine whether it is satisfactory. If a satisfactory report is not submitted in a timely manner, HUD may suspend funding until a satisfactory report is submitted, or may withdraw and re-allocate funding if HUD determines, after notice and opportunity for a hearing, that the jurisdiction will not submit a satisfactory report.

(g) The report will include a comparison of the proposed versus actual outcomes for each outcome measure submitted with the consolidated plan and explain, if applicable, why progress was not made toward meeting goals and objectives.

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

[60 FR 1896, Jan. 5, 1995, as amended at 71 FR 6971, Feb. 9, 2006]

### §91.525 Performance review by HUD.

(a) *General.* HUD shall review the performance of each jurisdiction covered by this part at least annually, including site visits by employees—insofar as practicable, assessing the following:

(1) Management of funds made available under programs administered by HUD;

(2) Compliance with the consolidated plan;

(3) Accuracy of performance reports;

(4) Extent to which the jurisdiction made progress towards the statutory goals identified in §91.1; and

(5) Efforts to ensure that housing assisted under programs administered by HUD is in compliance with contractual agreements and the requirements of law.

(b) *Report by HUD.* HUD shall report on the performance review in writing, stating the length of time the jurisdiction has to review and comment on the report, which will be at least 30 days. HUD may revise the report after considering the jurisdiction's views, and shall make the report, the jurisdiction's comments, and any revisions available to the public within 30 days after receipt of the jurisdiction's comments.

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### §91.600 Waiver authority.

Upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part. Each such waiver must be in writing and must be supported by documentation of the pertinent facts and grounds.

[60 FR 50802, Sept. 29, 1995]

## PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

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92.102 Participation threshold amount.

92.103 Notification of intent to participate.

92.104 Submission of a consolidated plan.

92.105 Designation as a participating jurisdiction.

92.106 Continuous designation as a participating jurisdiction.

92.107 Revocation of designation as a participating jurisdiction.

### Subpart D—Submission Requirements

92.150 Submission requirements.

### Subpart E—Program Requirements

92.200 Private-public partnership.

92.201 Distribution of assistance.

92.202 Site and neighborhood standards.

92.203 Income determinations.

92.204 Applicability of requirements to entities that receive a reallocation of HOME funds, other than participating jurisdictions.