

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

[61 FR 48750, Sept. 16, 1996, as amended at 67 FR 61755, Oct. 1, 2002]

EFFECTIVE DATE NOTE: At 69 FR 16765, Mar. 30, 2004, § 92.2 was amended by adding definitions of the terms "ADDI funds," "displaced homemaker," "first time homebuyer," "single family housing," and "single parent", and revising the definition of "state", effective Apr. 29, 2004. For the convenience of the user, the added text follows:

§ 92.2 Definitions.

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ADDI funds means funds made available under subpart M through allocations and re-allocations.

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Displaced homemaker means an individual who:

- (1) Is an adult;
- (2) Has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and
- (3) Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

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First-time homebuyer means an individual and his or her spouse who have not owned a home during the three-year period prior to purchase of a home with assistance under the American Dream Downpayment Initiative (ADDI) described in subpart M of this part. The term first-time homebuyer also includes an individual who is a displaced homemaker or single parent, as those terms are defined in this section.

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Single family housing means a one-to four-family residence, condominium unit, cooperative unit, combination of manufactured housing and lot, or manufactured housing lot.

- Single parent* means an individual who:
- (1) Is unmarried or legally separated from a spouse; and
 - (2) Has one or more minor children of whom the individual has custody or joint custody, or is pregnant.

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State means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the state with regard to the provisions of this part; however, for purposes of the American Dream Downpayment Initiative (ADDI) described in subpart M of this part, the term "state" does not include the Commonwealth of Puerto Rico (except for FY2003 ADDI funds).

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§ 92.4 Waivers and suspension of requirements for disaster areas.

HUD's authority for waiver of regulations and for the suspension of requirements to address damage in a Presidentially declared disaster area is described in 24 CFR 5.110 and in section 290 of the Act, respectively.

Subpart B—Allocation Formula

§ 92.50 Formula allocation.

(a) *Jurisdictions eligible for a formula allocation.* HUD will provide allocations of funds in amounts determined by the formula described in this section to units of general local governments that, as of the end of the previous fiscal year, are metropolitan cities, urban counties, or consortia approved under § 92.101; and States.

(b) *Amounts available for allocation; State and local share.* The amount of funds that are available for allocation by the formula under this section is equal to the balance of funds remaining after reserving amounts for insular areas, housing education and organizational support, other support for State and local housing strategies, and other purposes authorized by Congress, in accordance with the Act and appropriations.

(c) *Formula factors.* The formula for determining allocations uses the following factors. The first and sixth factors are weighted 0.1; the other four factors are weighted 0.2.

- (1) Vacancy-adjusted rental units where the household head is at or below the poverty level. These rental units are multiplied by the ratio of the national rental vacancy rate over a jurisdiction's rental vacancy rate.

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(2) Occupied rental units with at least one of four problems (overcrowding, incomplete kitchen facilities, incomplete plumbing, or high rent costs). *Overcrowding* is a condition that exists if there is more than one person per room occupying the unit. *Incomplete kitchen facilities* means the unit lacks a sink with running water, a range, or a refrigerator. *Incomplete plumbing* means the unit lacks hot and cold piped water, a flush toilet, or a bathtub or shower inside the unit for the exclusive use of the occupants of the unit. *High rent costs* occur when more than 30 percent of household income is used for rent.

(3) Rental units built before 1950 occupied by poor households.

(4) Rental units described in paragraph (c)(2) of this section multiplied by the ratio of the cost of producing housing for a jurisdiction divided by the national cost.

(5) Number of families at or below the poverty level.

(6) Population of a jurisdiction multiplied by a net per capita income (pci). To compute net pci for a jurisdiction or for the nation, the pci of a three person family at the poverty threshold is subtracted from the pci of the jurisdiction or of the nation. The index is constructed by dividing the national net pci by the net pci of a jurisdiction.

(d) *Calculating formula allocations for units of general local government.* (1) Initial allocation amounts for units of general local government described in paragraph (a) of this section are determined by multiplying the sum of the shares of the six factors in paragraph (c) of this section by 60 percent of the amount available under paragraph (b) of this section for formula allocation. The shares are the ratio of the weighted factor for each jurisdiction over the corresponding factor for the total for all of these units of general local government.

(2) If any of the initial amounts for such units of general local government in Puerto Rico exceeds twice the national average, on a per rental unit basis, that amount is capped at twice the national average.

(3) To determine the maximum number of units of general local government that receive a formula allocation,

only one jurisdiction (the unit of general local government with the smallest allocation of HOME funds) is dropped from the pool of eligible jurisdictions on each successive recalculation, except that jurisdictions that are participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) are not dropped. Then the amount of funds available for units of general local government is redistributed to all others. This recalculation/redistribution continues until all remaining units of general local government receive an allocation of \$500,000 or more or are participating jurisdictions. Only units of general local government which receive an allocation of \$500,000 or more under the formula or which are participating jurisdictions will be awarded an allocation. In fiscal years in which Congress appropriates less than \$1.5 billion of HOME funds, \$335,000 is substituted for \$500,000.

(4) The allocation amounts determined under paragraph (d)(3) of this section are reduced by any amounts that are necessary to provide increased allocations to States that have no unit of general local government receiving a formula allocation (see paragraph (e)(4) of this section). These reductions are made on a *pro rata* basis, except that no unit of general local government allocation is reduced below \$500,000 (or \$335,000 in fiscal years in which Congress appropriates less than \$1.5 billion of HOME funds) and no participating jurisdiction allocation which is below this amount is reduced.

(e) *Calculating formula allocations for States.* (1) Forty percent of the funds available for allocation under paragraph (b) of this section are allocated to States. The allocation amounts for States are calculated by determining initial amounts for each State, based on the sum of the shares of the six factors. For 20 percent of the funds to be allocated to States, the shares are the ratio of the weighted factor for the entire State over the corresponding factor for the total for all States. For 80 percent of the funds to be allocated to States, the shares are the ratio of the weighted factor for all units of general local government within the State that do not receive a formula allocation

over the corresponding factor for the total for all States.

(2) If the initial amounts for Puerto Rico (based on either or both the 80 percent of funds or 20 percent of funds calculation) exceed twice the national average, on a per rental unit basis, each amount that exceeds the national average is capped at twice the national average, and the resultant funds are reallocated to other States on a prorata basis.

(3) If the initial amounts when combined for any State are less than the \$3,000,000, the allocation to that State is increased to the \$3,000,000 and all other State allocations are reduced by an equal amount on a prorata basis, except that no State allocation is reduced below \$3,000,000.

(4) The allocation amount for each State that has no unit of general local government within the State receiving an allocation under paragraph (d) of this section is increased by \$500,000. Funds for this increase are derived from the funds available for units of general local government, in accordance with paragraph (d)(4) of this section.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28928, May 28, 1997; 67 FR 61755, Oct. 1, 2002]

INSULAR AREAS PROGRAM

§92.60 Allocation amounts for insular areas.

(a) *Initial allocation amount for each insular area.* The initial allocation amount for each insular area is determined based upon the insular area's population and occupied rental units compared to all insular areas.

(b) *Threshold requirements.* The HUD Field Office shall review each insular area's progress on outstanding allocations made under this section, based on the insular area's performance report, the timeliness of close-outs, and compliance with fund management requirements and regulations, taking into consideration the size of the allocation and the degree and complexity of the program. If HUD determines from this review that the insular area does not have the capacity to administer effectively a new allocation, or a portion of a new allocation, in addition to alloca-

tions currently under administration, HUD may reduce the insular area's initial allocation amount.

(c) *Previous audit findings and outstanding monetary obligations.* HUD shall not make an allocation to an insular area that has either an outstanding audit finding for any HUD program, or an outstanding monetary obligation to HUD that is in arrears, or for which a repayment schedule has not been established. This restriction does not apply if the HUD Field Office finds that the insular area has made a good faith effort to clear the audit and, when there is an outstanding monetary obligation to HUD, the insular area has made a satisfactory arrangement for repayment of the funds due HUD and payments are current.

(d) *Increases to the initial allocation amount.* If funds reserved for the insular areas are available because HUD has decreased the amount for one or more insular areas in accordance with paragraphs (b) or (c) of this section, or for any other reason, HUD may increase the allocation amount for one or more of the remaining insular areas based upon the insular area's performance in committing HOME funds within the 24 month deadline, producing housing units described in its program description, and meeting HOME program requirements. Funds that become available but which are not used to increase the allocation amount for one or more of the remaining insular areas will be reallocated in accordance with §92.66.

(e) *Notice of allocation amounts.* HUD will notify each insular area, in writing, as to the amount of its HOME allocation.

§92.61 Program description.

(a) *Submission requirement.* Not later than 90 days after HUD notifies the insular area of the amount of its allocation, the insular area must submit a program description and certifications to HUD.

(b) *Content of program description.* The program description must contain the following:

- (1) An executed Standard Form 424;
- (2) The estimated use of HOME funds and a description of projects and eligible activities, including number of