

§ 92.203

for new construction meet the requirements in 24 CFR 983.6(b).

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

§ 92.203 Income determinations.

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

(1) For families who are tenants in HOME-assisted housing and not receiving HOME tenant-based rental assistance, the participating jurisdiction must initially determine annual income using the method in paragraph (a)(1)(i) of this section. For subsequent income determinations during the period of affordability, the participating jurisdiction may use any one of the following methods in accordance with § 92.252(h):

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

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

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

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

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

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

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

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

(ii) Self-employment income from owned non-farm business, including proprietorships and partnerships;

(iii) Farm self-employment income;

(iv) Interest, dividends, net rental income, or income from estates or trusts;

(v) Social Security or railroad retirement;

(vi) Supplemental Security Income, Aid to Families with Dependent Children, or other public assistance or public welfare programs;

(vii) Retirement, survivor, or disability pensions; and

(viii) Any other sources of income received regularly, including Veterans' (VA) payments, unemployment compensation, and alimony; or

(3) Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes.

(c) Although the participating jurisdiction may use any of the three definitions of "annual income" permitted in paragraph (b) of this section, to calculate adjusted income it must apply exclusions from income established at 24 CFR 5.611. The HOME rents for very low-income families established under § 92.252(b)(2) are based on adjusted income. In addition, the participating jurisdiction may base the amount of tenant-based rental assistance on the adjusted income of the family.

(d) (1) The participating jurisdiction must calculate the annual income of the family by projecting the prevailing rate of income of the family at the

time the participating jurisdiction determines that the family is income eligible. Annual income shall include income from all family members. Income or asset enhancement derived from the HOME-assisted project shall not be considered in calculating annual income.

(2) The participating jurisdiction is not required to re-examine the family's income at the time the HOME assistance is provided, unless more than six months has elapsed since the participating jurisdiction determined that the family qualified as income eligible.

(3) The participating jurisdiction must follow the requirements in § 5.617 when making subsequent income determinations of persons with disabilities who are tenants in HOME-assisted rental housing or who receive tenant-based rental assistance.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28928, May 28, 1997; 66 FR 6224, Jan. 19, 2001]

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

(a) Jurisdictions other than participating jurisdictions and community housing development organizations receiving competitive reallocations from HUD are subject to the same requirements in subpart E (Program Requirements), subpart F (Project Requirements), subpart K (Program Administration), and subpart L (Performance Reviews and Sanctions) of this part as participating jurisdictions, except for the following:

(1) Subpart E (Program Requirements): the matching contribution requirements in § 92.218 through § 92.221 do not apply.

(2) Subpart K (Program Administration):

(i) Section 92.500 (The HOME Investment Trust Fund) does not apply. HUD will establish a HOME account in the United States Treasury and the HOME funds must be used for approved activities. A local account must be established for program income. HUD will recapture HOME funds in the HOME Treasury account by the amount of:

(A) Any funds that are not committed within 24 months after the last

day of the month in which HUD notifies the entity of HUD's execution of the HOME Investment Partnership Agreement;

(B) Any funds that are not expended within five years after the last day of the month in which HUD notifies the entity of HUD's execution of the HOME Investment Partnership Agreement; and

(C) Any penalties assessed by HUD under § 92.552.

(ii) Section 92.502 (Program disbursement and information system) applies, except that references to the HOME Investment Trust Fund mean HOME account and the reference to 24 CFR part 58 does not apply. In addition, § 92.502(c) does not apply, and instead, compliance with Treasury Circular No. 1075 (31 CFR part 205) and 24 CFR 85.21 is required.

(iii) Section 92.503 (Program income, repayments, and recaptured funds) applies, except that program income may be retained provided the funds are used for eligible activities in accordance with the requirements of this section.

(3) Section 92.504 (Participating jurisdiction responsibilities; written agreements; on-site inspections) applies, except that the written agreement must ensure compliance with the requirements in this section.

(4) Section 92.508 (Recordkeeping) applies with respect to the records that relate to the requirements of this section.

(5) Section 92.509 (Performance reports) applies, except that a performance report is required only after completion of the approved projects.

(b) The requirements in subpart H (Other Federal Requirements) of this part apply as written, except that jurisdictions and community housing development organizations receiving reallocations from HUD must comply with affirmative marketing requirements, labor requirements, and lead-based paint requirements, applicable to participating jurisdictions.

(c) Subpart B (Allocation Formula), subpart C (Consortia; Designation and Revocation of Designation as a Participating Jurisdiction), and subpart G (Community Housing Development Organizations) of this part do not apply.