

U. S. Department of Housing and Urban Development  
Community Planning and Development

Special Attention of:

Notice: CPD 98-7

All Secretary's Representatives  
All State/Area Coordinators  
All CPD Division Directors  
All HOME Participating Jurisdictions

Issued: May 29, 1998  
Expires: May 29, 1999

Cross Reference: 24 CFR Parts 91 and 92

SUBJECT: Notice of procedures for designating consortia: HOME  
Investment Partnerships Program

I. Background

The HOME Program is authorized by the HOME Investment Partnerships Act which is Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended (42 U.S.C. 12701 et seq.) (Act). Section 216(2) of the Act provides that a consortium of geographically contiguous units of general local government is considered a unit of general local government for purposes of the HOME Program if the Secretary determines that the consortium (a) has sufficient authority and administrative capability to carry out the purposes of the Act on behalf of its member jurisdictions and (b) will, according to a written certification by the State, direct its activities to the alleviation of housing problems within the State.

In accordance with section 217(b)(3) of the Act, HUD will include, as jurisdictions eligible to receive allocations of HOME funds by formula, units of general local government that, as of the end of the previous fiscal year, qualified as metropolitan cities (as defined at section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302 (a)(4)); urban counties (as defined at section 102(a)(6) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)) and throughout this notice "urban county" has this meaning); and approved consortia of units of general local government.

The Department plans to complete the designation of new urban counties and metropolitan cities before September 30, 1998 (the end of FY 1998), so that they will be designated and eligible to receive a HOME allocation as well as an allocation of Community Development Block Grant (CDBG) funds for FY 1999.

CGHF: Distribution: W-3-1, Special (CPD Regional and Field Office Directors)

## II. Purpose

This Notice updates the procedures in CPD Notice 97-05. The notice provides guidance to HUD Field Offices and local governments on the procedures for designation of local governments to participate as consortia in the HOME Investment Partnerships Program for FY 1999. Special attention should be directed to the deadlines. Delays in designating consortia may result in delays in determining the final allocations of HOME Program funds for all HOME Program Participating Jurisdictions (PJs) and/or loss of eligibility to receive an allocation if FY 1999.

## III. Applicability

This notice is applicable to (a) local governments that wish to form a consortium for the first time to participate in the HOME Program for FY 1999, (b) existing consortia already qualified to participate for FY 1999, but which wish to add one or more local governments, and (c) existing consortia which must execute a new consortium agreement because their consortium qualification period ends September 30, 1998.

A list of consortia that are participating in the HOME Program for FY 1998 is included as Attachment A to this notice and a list of consortia which must renew their HOME consortium agreements to participate as a consortium in the HOME Program for FY 1999 through FY 2001 is included as Attachment B.

## IV. Effect of Consortia Formation on State Funding

Consortia are contiguous units of local government which join together for purposes of receiving a HOME allocation and administering the HOME program as a single grantee. Each consortium must designate a lead member, and must receive a certification from the State that it will direct its activities to alleviation of housing problems within the State.

In most cases, the formation of consortia causes a reduction in the amount available to the State for its program, and may also result in a reduction in the amount of funds available for the State as a whole. HOME funds are distributed (after set-asides) by formula with 40% of the funds going to States and 60% of funds going to units of local government. The amount each State receives is based on two calculations: 80% of their funds is based on the demography of the nonentitled areas of the State, while 20% of their funds is based on the demography of the whole State. Except for States which receive the minimum allocation of \$3,000,000, the amount available to the state is reduced when a consortium is formed because the demography of the consortium is included only in the calculation for 20% of the funds, and not in the calculation for 80% of the funds, where some or all of the demography of the consortium had been previously included.

Whether the formation of a consortium also results in a reduction in funds available for the state as a whole depends on whether the allocation to the consortium from the local government pot of funds equals or exceeds the amount of the reduction in the funds going to the State. Since the amount available in the pot of funds available for local governments is divided among more jurisdictions each year due to new metro cities,

new urban counties, and new consortia, the amount going to the new consortium depends on its relative share compared to other jurisdictions. Field offices should take care in explaining the possible loss of funding to the State as a whole in discussing the merits of consortia formation with prospective consortia.

Irrespective of the funding levels, the formation of consortia can be a positive force for affordable housing production, in that it permits an area that otherwise may not be assured of funding to plan and carry out an affordable housing program with continuity.

#### V. Timing of Submissions

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

By March 1, 1998, (or such later date as agreed to by the applicable HUD Field Office) to be considered for an allocation of HOME funds in FY 1999, a proposed consortium, or a member jurisdiction in a potential consortium (i.e., a local government interested in forming a consortium with other local governments), or a consortium which must sign a new HOME consortium agreement is to provide to the appropriate HUD Field Office written notification of its intent to participate as a consortium in the HOME Program for FY 1999. NOTE: An existing consortium which must amend its HOME consortium agreement to add new members should follow the procedures in Paragraph XI below.

By June 30, 1998, (or a later date if agreed to by the applicable HUD Field Office) a proposed consortium or a consortium which must sign a new agreement or which wishes to amend its current agreement must submit to the appropriate HUD Field Office the documents as required below in section VII, entitled "Procedures Localities Must Follow for Designation as a Consortium." NOTE: Any delay in receipt of the consortium agreement must not interfere with the Field Office's ability to meet the August 1 deadline below.

By August 1, 1998, Field Offices must approve all consortia agreements and provide Headquarters CPD, Office of Affordable Housing Programs, with evidence from the consortium agreement for each consortia which must sign a new or amended agreement which (1) lists the consortium members and (2) documents the consortium qualification period. The appropriate pages from the consortium agreement should be forwarded to Frances Bush, Office of Affordable Housing Programs, Room 7168 or faxed to (202) 708-1744, ATTN: Frances Bush. NOTE: THIS DATE MAY NOT BE EXTENDED WITHOUT PRIOR WRITTEN AUTHORIZATION FROM HEADQUARTERS.

During late August or early September, the CPD Systems Development and Evaluation Division in Headquarters will send worksheets via cc:mail to Field Office CPD Directors to verify data for each consortium that will be included in the formula allocation for Fiscal Year 1999. CPD Directors should verify the worksheets with the consortium lead agency to assure the accuracy of the information.

By September 20, 1998, CPD Directors shall update and complete the worksheet for each consortium in the Field Office jurisdiction, sign the worksheet and send a copy of the worksheet to the CPD Systems Development and Evaluation Division in Headquarters to allow sufficient time for data to be assembled so that changes can be reflected in the FY 1999 allocation of HOME funds. NOTE:  
THIS DATE MAY NOT BE EXTENDED WITHOUT PRIOR WRITTEN AUTHORIZATION FROM HEADQUARTERS.

#### VI. Eligibility for Forming a Consortium

Local governments that are geographically contiguous may form a consortium for purposes of receiving an allocation and participating in the HOME Program. A river or other body of water may separate them, but if there is transportation access (e.g., bridges), they may be considered contiguous. The local governments forming a consortium may be cities or urban counties that would be eligible, individually, to become participating jurisdictions in the HOME Program, or other local governments. A unit of local government that is included in an urban county may be part of a consortium, only if the urban county joins the consortium. The included local government cannot join the consortium except through participation in the urban county. (Thus, when local governments become part of an urban county for the CDBG Program, they are part of the urban county for the HOME Program, except for metropolitan cities under joint grant agreements with urban counties as described in section VIII, third paragraph of this notice.)

Further, as indicated in section 91.402 of the Consolidated Plan final rule and in section IX of this notice, all units of general local government that are members of the consortium must be on the same program year for CDBG, HOME, Emergency Shelter Grants (ESG) and Housing Opportunities for Persons With AIDS (HOPWA).

#### VII. Procedures Localities Must Follow for Designation as a Consortium

To be considered as a HOME consortium for FY 1999, a proposed consortium, or a consortium which must execute a new HOME consortium agreement, must provide, by June 30, 1998 (or such later date as agreed to by the applicable HUD Field Office), the required qualification documents to the appropriate HUD Field Office, which include:

1. A written certification by the State that the consortium will direct its activities to the alleviation of housing problems within the State. The State certification may be signed by whoever has the authority to make the certification; it may be the Governor or his/her designee. If a designee signs, the signature line must indicate it is an "Authorized Official."
2. One legally binding consortium cooperation agreement that has been executed by all consortium members:
  - (a) Agreeing to cooperate to undertake or to assist in undertaking housing assistance activities for the HOME Program;

- (b) Authorizing one member unit of general local government to act in a representative capacity for all member units of general local government for the purposes of the HOME Program;
- (c) Providing that the representative member (also referred to as the lead entity) assumes overall responsibility for ensuring that the consortium's HOME Program is carried out in compliance with the requirements of the HOME Program, including requirements concerning a Consolidated Plan in accordance with HUD regulations in 24 CFR Parts 92 and 91, respectively, and the requirements of [24 CFR 92.350](#);

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

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

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

- (f) Containing, or accompanied by, a legal opinion from the lead entity's counsel citing applicable law and concluding that the terms and provisions of the agreement are fully authorized under State and local law and that the agreement provides full legal authority for the consortium to undertake or assist in undertaking housing assistance activities for the HOME Program;
- (g) Containing a provision requiring each member unit of local government to affirmatively further fair housing;
- (h) Specifying the qualification period, the time for which the agreement remains in effect, and the prohibition on withdrawal from the agreement during such time, as described in section XI.
- (i) Stating the program year start date for the consortium and that all units of general local government that are members of the consortium are on the same program year for CDBG, HOME, ESG and HOPWA; and

- (j) Authorizing the lead entity to amend the consortium agreement on behalf of the entire consortium to add new members to the consortium.

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

#### VIII. Joint Grant Agreements

The CDBG Program regulations at [24 CFR 570.308](#) allow for any urban county, and any metropolitan city located in whole or in part within that county, to submit a joint request to HUD to approve the inclusion of the metropolitan city as part of the urban county for purposes of planning and implementing a joint community development and housing program. Each metropolitan city and urban county submitting a joint request must also have executed a cooperation agreement to undertake or to assist in the undertaking of essential community development and housing activities. Such agreement is here after referred to as a "joint grant agreement." Upon HUD's approval of the joint request and joint grant agreement, the metropolitan city is considered a part of the urban county for purposes of program planning and implementation under the CDBG Program, and is treated the same as any other unit of general local government which is part of the urban county.

However, for the HOME Program, if a metropolitan city that has a joint grant agreement with an urban county for the CDBG Program wishes to be considered for funding as part of the urban county for the HOME Program, it must form a HOME consortium with the urban county. If such a city and urban county wish to form a new HOME consortium, the urban county and/or the metropolitan city must follow the procedures outlined above and submit a notice of intent by March 1, 1998, and by June 30, 1998 (or such later dates as agreed to by the applicable HUD Field Office), must submit the required documentation for designation as a "consortium."

#### IX. Consolidated Program Year

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

#### X. Consolidated Plan

To receive FY 1999 HOME funds, a unit of general local government must submit a Consolidated Plan. A -consortium is considered a unit of local government for purposes of receiving an allocation and participating in the HOME Program. Therefore, when two or more units of local government form a consortium for the purpose of receiving a formula allocation under the HOME Program, the consortium must, as a condition of funding, submit a single Consolidated Plan that covers the entire geographic area encompassed by that consortium. Where a consortium includes one or more CDBG entitlement grantees, any such grantee does not submit an individual Consolidated Plan (for the CDBG Program) in addition to the consortium's Consolidated Plan.

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

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

#### XI. Consortium Agreement:

##### Qualification Period and Duration of Agreement

The consortium agreement must specify the fiscal years for which the consortium is to qualify to receive allocations as a participating jurisdiction in the HOME Program. The qualification period is the three Federal fiscal years following the fiscal year in which the agreement is executed (i.e., FY 1999-2001), except that if one or more urban counties are members of the consortium, the agreement may specify a lesser number of Federal fiscal years coinciding with the fiscal years remaining in an urban county's qualification period. Notwithstanding the Federal fiscal years specified, if an urban county consortium member fails to requalify as an urban county for a fiscal year included in the consortium agreement, the consortium's qualification period terminates with the last fiscal year for which the urban county qualified. A new consortium agreement must be executed for the succeeding qualification period.

The consortium agreement must, at a minimum, remain in effect until the HOME funds from each of the Federal fiscal years of the qualification period are expended for eligible activities. No consortium member may withdraw from the agreement while the agreement remains in effect. The new agreement is governed by the requirements of the then current Consortium Qualification notice.

NOTE: A consortium may be disbanded if the consortium fails to receive a HOME allocation for the first Federal fiscal year of the consortium's qualification period and does not request to be considered to receive a HOME allocation in each of the subsequent two years.

A consortium agreement can be amended to add new member units of general local government for the remaining fiscal years of the qualification period. The agreement must be amended in the fiscal year before the fiscal -year(s) for which the new members are added, in accordance with the timing requirements of the then current Consortium Qualification notice. The consortium must notify the appropriate HUD Field Office by March 1, 1998 (or such later date as agreed to by the applicable HUD Field Office), of its interest in adding new members for FY 1999, and by June 30, 1998 (or such later date as agreed to by the applicable HUD Field Office), must provide the HUD Field Office a copy of the authorizing resolution from the new member's governing body and an amendment to the consortium agreement signed by the chief executive officer of the lead entity (if the consortium agreement authorizes the lead entity to sign on behalf of all members) and the chief executive officer of the new unit of local government, adding the new unit of local government as a member of the consortium. Any change in the make-up of the consortium must be communicated to Headquarters in accordance with the requirements of Section V above.

## XII. HUD Action

For any consortium request whose notification was received by March 1, 1998, or such later date as agreed to by the HUD Field Office, and whose consortium agreement and other required documentation were received by June 30, 1998, or such later date as agreed to by the UD Field Office, the HUD Field Office will review the documentation to determine whether the consortium is made up of geographically contiguous units of general local government, whether the consortium has sufficient legal authority and administrative capability to carry out the purposes of the HOME Program on behalf of its member jurisdictions, and that there is a written certification from the State as provided in Paragraph VII. Also, the Field Office will assure that all units of general local government which are to be members of the consortium are on the same program year for CDBG, HOME, ESG and HOPWA.

## XIII. Legal Authority

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

## XIV. Administrative Capacity

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

If the HUD Field Office is satisfied that the consortium meets the requirements for the HOME Program and has the necessary legal authority and administrative capability to carry out the HOME Program, it will approve the consortium request no later than August 1, 1998 and notify Headquarters as provided in Section V.

## XV. Summary of Key Dates

March 1, 1998, to be considered for an allocation of HOME funds in FY 1999, a proposed consortium, or a member jurisdiction in a potential consortium (i.e., a local government interested in forming a consortium with other local governments), or a consortium which must sign a new or amended HOME consortium agreement is to provide to the appropriate HUD Field Office written notification of its intent to participate as a consortium in the HOME Program for FY 1999.

June 30, 1998, a proposed consortium or a consortium which must sign a new agreement or which wishes to amend its current agreement must submit to the appropriate HUD Field Office



the documents as required in section VII, entitled "Procedures Localities Must Follow for Designation as a Consortium."

NOTE: The March 1 and June 30 deadlines may be extended by Field Offices, however, any delay in receipt of the consortium agreement must not interfere with the Field Office's ability to meet the August 1 deadline below.

August 1, 1998, Field Offices must approve all consortia agreements and provide Headquarters CPD, Office of Affordable Housing Programs, with evidence from the consortium agreement for each consortia which must sign a new or amended agreement which (1) list the consortium members and (2) document the consortium qualification period. The appropriate pages from the consortium agreement should be forwarded to Frances Bush, Office of Affordable Housing Programs, Room 7168 or faxed to (202) 708-1744, ATTN: Frances Bush. NOTE: THIS DATE MAY NOT BE EXTENDED WITHOUT PRIOR WRITTEN AUTHORIZATION FROM HEADQUARTERS.

Late August or early September, the CPD Systems Development and Evaluation Division in Headquarters will send worksheets via cc:mail to Field Office CPD Directors to verify data for each consortium that will be included in the formula allocation for the fiscal year. CPD Directors should verify the worksheets with the consortium lead agency to assure the accuracy of the information.

September 20, 1998, CPD Directors shall update and complete the worksheet for each consortium in the Field Office jurisdiction, sign the worksheet and send a copy of the worksheet to the CPD Systems Development and Evaluation Division in Headquarters to allow sufficient time for data to be assembled so that changes can be reflected in the FY 1999 allocation of HOME funds. NOTE: THIS DATE MAY NOT BE EXTENDED WITHOUT PRIOR WRITTEN AUTHORIZATION FROM HEADQUARTERS.

XVI. Appendix  
Attachment A

HOME PROGRAM APPROVED CONSORTIA - FISCAL  
YEAR 1998

Attachment B

HOME PROGRAM CONSORTIA THAT NEED TO  
REQUALIFY FOR FY 1999-2001

HOME PROGRAM APPROVED CONSORTIA - FY 1998

ATTACHMENT A

STATE	CONSORTIA NAME	
AZ	MARICOPA COUNTY	TUCSON
CA	SAN MATEO COUNTY SAN BERNARDINO COUNTY SAN DIEGO COUNTY CONTRA COSTA COUNTY SANTA BARBARA COUNTY	ALAMEDA COUNTY VENTURA COUNTY
CO	PUEBLO	
FL	PINELLAS COUNTY VOLUSIA COUNTY BREVARD COUNTY SARASOTA COUNTY ESCAMBIA COUNTY	
GA	COBB COUNTY	
IL	LAKE COUNTY COOK COUNTY DUPAGE COUNTY ST. CLAIR COUNTY URBANA	
IN	SOUTH BEND LAFAYETTE ELKHART COUNTY	
IA	SIOUX CITY	
KS	JOHNSON COUNTY	
LA	JEFFERSON PARISH	
MA	HOLYOKE NEWTON MALDEN QUINCY FITCHBURG PEABODY	

HOME PROGRAM APPROVED CONSORTIA - FY 1998

STATE	CONSORTIA NAME
MN	ST. LOUIS COUNTY HENNEPIN COUNTY DAKOTA COUNTY
NV	CLARK COUNTY RENO CARSON CITY
NJ	OCEAN COUNTY HUDSON COUNTY UNION COUNTY MERCER COUNTY CAMDEN COUNTY VINELAND MORRIS COUNTY MIDDLESEX COUNTY ATLANTIC COUNTY
NY	ERIE COUNTY MONROE COUNTY ONONDAGA COUNTY AMHERST JEFFERSON COUNTY DUTCHESS COUNTY ORANGE COUNTY
	SCHNECTADY
NC	WNSTON-SALEM GASTONIA ASHEVILLE SURRY COUNTY LENOIR ORANGE COUNTY DURHAM GREENSBORO CONCORD ROCKY MOUNT GREENVILLE
OH	WARREN MONTGOMERY COUNTY STARK COUNTY CUYAHOGA COUNTY

HOME PROGRAM APPROVED CONSORTIA - FY 1998

STATE	CONSORTIA NAME	
OK	TULSA COUNTY	
OR	PORTLAND EUGENE SALEM	
OR	WASHINGTON COUNTY	
PA	BUCKS COUNTY WESTMORELAND COUNTY	ALLEGHENY COUNTY
SC	SUMTER COUNTY	
UT	SALT LAKE COUNTY PROVO	
VA	CHARLOTTESVILLE SUFFOLK	
WA	KING COUNTY SNOHOMISH COUNTY CLARK COUNTY RICHLAND KITSAP COUNTY LONGVIEW	
WV	HUNTINGTON WHEELING PARKERSBURG CHARLESTON	
WI	MILWAUKEE COUNTY WAUKESHA	

ATTACHMENT B

HOME PROGRAM CONSORTIA THAT NEED TO REQUALIFY  
FOR FY 1999 - 2001

STATE	CONSORTIA NAME
AZ	TUCSON
FL	SARASOTA COUNTY  FITCHBURG PEABODY
MN	ST. LOUIS COUNTY DAKOTA COUNTY
NJ	OCEAN COUNTY VINELAND MIDDLESEX COUNTY
NY	AMHERST
NC	WINSTON-SALEM GASTONIA ASHEVILLE SURRY COUNTY LENOIR GREENSBORO
PA	ALLEGHENY COUNTY
VA	SUFFOLK
WA	RICHLAND
WV	WHEELING PARKERSBURG