



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

Special Attention of:

All Regional Office Directors
All Field Office Directors
All CPD Office Directors
All HOME Participating Jurisdictions

Notice: CPD 07-14
Issued: February 26, 2007
Expires: February 26, 2008

Cross Reference: 24 CFR Parts 91 & 92

SUBJECT: HUD Procedures for Rejecting a Participating Jurisdiction’s Consolidated Plan/Action Plan HOME Certification(s)

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I. PURPOSE

This Notice provides guidance to HUD Field Office staff in the Office of Community Planning and Development (CPD) about the procedures that the Field Office must follow to reject one or more of a Participating Jurisdiction's (PJ's) HOME program certifications because that certification(s) is inaccurate.

A Participating Jurisdiction (PJ) must provide HOME program certifications as part of its annual Consolidated Plan/Action Plan (Plan) submission to HUD. There are three HOME certifications. The CPD Director in the HUD Field Office is responsible for approving or disapproving a PJ's Plan submission. When a CPD Director has evidence that one or more of a PJ's HOME certifications is inaccurate, HUD can reject that certification(s). If HUD rejects a PJ's HOME certification as inaccurate, HUD will disapprove the HOME portion of the PJ's Plan, and withhold the PJ's new Federal fiscal year HOME allocation until the PJ takes corrective action to make that certification acceptable to HUD.

HUD's rejection of a PJ's HOME certification is one of the tools that a Field Office can use to address a PJ's HOME performance or compliance problems related to that certification. Because HUD's rejection of a PJ's HOME certification and disapproval of the HOME portion of a PJ's Plan will prevent the PJ from receiving its future Federal fiscal year HOME allocation, this tool is a particularly effective method for focusing the PJ's senior leadership on the need to develop the strong management, internal procedures, and administrative oversight that assures the PJ's future compliance with the HOME program rules that relate to that certification(s).

HUD's rejection of one or more of a PJ's HOME certifications is governed by the Consolidated Plan/Action Plan regulations at 24 CFR Part 91. When the CPD Director determines that there is sufficient evidence to reject one or more of a PJ's HOME certifications, the Field Office must follow the procedures described in this Notice. These procedures require the Field Office to obtain the concurrence of the CPD Office of Affordable Housing Programs (OAHP) in HUD Headquarters before taking any action. OAHP will consult with the Office of General Counsel (OGC), as appropriate. By consulting with OAHP, the Field Office will ensure that its actions are consistent with the statutory and regulatory requirements.

HUD's rejection of one or more of a PJ's HOME certifications and disapproval of the HOME portion of a PJ's Plan does not affect the PJ's ability to spend available HOME funds that it has already received from prior Federal fiscal year HOME allocations. To address deficiencies in HOME activities funded with prior Federal fiscal year HOME funds, the Field Office must follow the procedures in 24 CFR 92.551 *Corrective and Remedial Actions*.

All time periods described in this Notice are calendar days.

II. BACKGROUND

The regulations at 24 CFR part 91 *Consolidated Submissions for Community Planning and Development Programs* describe the requirements that apply to the submission and approval of a PJ's Consolidated Plan/Action Plan. Subpart C describes the contents of a local government's Plan. Subpart D describes the contents of a State's Plan. Subpart E describes the contents of a Consortium's Plan. Subpart F describes the requirements for HUD's approval or disapproval of a PJ's Plan.

The Consolidated Plan regulations require a PJ to submit general certifications and as many as three HOME certifications as part of its annual Plan submission to HUD. 24 CFR 91.5 defines "certification" as a written assertion by the PJ, based on supporting evidence that must be kept available for inspection by HUD, the Inspector General of HUD and the public.

HOME PROGRAM CERTIFICATIONS	REGULATORY CITATIONS
<p>1. <i>Certification that if the PJ plans to use HOME funds for tenant-based rental assistance, the rental-based assistance is an essential element of its Consolidated Plan;</i></p>	<p><i>§91.225(d)(1) Local Governments §91.325(d)(1) State Governments §91.425(d)(1) Consortia</i></p>
<p>2. <i>Certification that the PJ is using and will use HOME funds for eligible activities and costs, as described in §§92.205 through 92.209, and that it is not using or will not use HOME funds for prohibited activities as described in §92.214; and</i></p>	<p><i>§91.225(d)(2) Local Governments §91.325(d)(2) State Governments §91.425(d)(2) Consortia</i></p>
<p>3. <i>Certification that before committing funds to a project, the PJ (or its state recipients) will evaluate the project in accordance with guidelines 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.</i></p>	<p><i>§91.225(d)(3) Local Governments §91.325(d)(3) State Governments §91.425(d)(3) Consortia</i></p>

The Field Office must complete its review of the PJ's Plan no later than 45 days after the Field Office receives the Plan. In accordance with 24 CFR 91.500(a), a PJ's Plan will be deemed approved unless the Field Office notifies the PJ of the Plan's disapproval before the end of HUD's 45-day Plan review period.

The Field Office can disapprove all or a portion of a PJ's Plan, when HUD determines that the PJ's Plan is inconsistent with the purposes of the Cranston-Gonzalez National Affordable Housing Act or that the Plan is substantially incomplete. A PJ's Plan is substantially incomplete if it was developed without the required citizen participation or consultation; it fails to satisfy all of the required elements; *or, HUD rejects a certification as inaccurate.*

III. HUD'S BASIS FOR REJECTING A PARTICIPATING JURISDICTION'S HOME CERTIFICATION(S)

HUD shall deem a PJ's HOME certification(s) to be accurate unless HUD determines otherwise after inspecting the evidence and providing the PJ with due notice and an opportunity to comment, as required by 24 CFR 91.5 *Definition of a Certification*. The evidence that provides the basis for HUD's rejection of a PJ's HOME certification(s) must relate to the PJ's use of its *new Federal fiscal year* allocation of HOME funds.

The CPD Director in the HUD Field Office is responsible for making HUD's determination that a PJ's HOME certifications are accurate, or that one or more of a PJ's HOME certifications is inaccurate and should be rejected. Because circumstances vary by PJ, there are no absolute standards for establishing that a PJ's HOME certification(s) is inaccurate.

HUD may determine that a PJ's HOME certification(s) is inaccurate based on evidence from unresolved audit findings, or the results of remote or on-site monitoring. HUD can make this determination before the Field Office issues its monitoring report. For example, a CPD Representative may discover in the course of a discussion with the PJ, that the PJ did not adopt or is not using subsidy-layering guidelines in accordance with its HOME certification. If the PJ is unable to submit evidence that the subsidy layering guidelines have been adopted and are being used, then HUD can reject this certification as inaccurate.

The following guidelines will assist the CPD Director in making HUD's determination that one or more of a PJ's HOME certifications is inaccurate and should be rejected. When the CPD Director concludes that a HOME certification(s) should be rejected, the Field Office must follow the procedures outlined in Section IV of this Notice.

The CPD Director must consult with OAHP before rejecting a PJ's HOME certification(s). By consulting with OAHP before acting, the CPD Director will ensure that the Field Office's actions are consistent with the statutory and regulatory requirements.

1. *Certification that if the PJ plans to use HOME funds for tenant-based rental assistance, the rental-based assistance is an essential element of its Consolidated Plan.*

The CPD Director can determine that this certification is inaccurate when the PJ fails to specify the local market conditions that led to the PJ's choice to use HOME funds for tenant-based rental assistance (TBRA), as required by 24 CFR 92.209(b). This supporting evidence must be included in the PJ's Plan submission.

The PJ should be able to correct this deficiency before the expiration of the 45-day Plan review period by specifying the local market conditions that led the PJ to use HOME funds for TBRA, and adding this supporting evidence to its Plan. Generally, HUD will not reject this certification unless the PJ fails to add the required supporting evidence to its Plan before HUD's 45-day deadline.

2. *Certification that the PJ is using and will use HOME funds for eligible activities and costs, as described in §§92.205 through 92.209, and that it is not using or will not use HOME funds for prohibited activities as described in §92.214.*

The CPD Director can determine that this certification is inaccurate when the PJ fails to use its HOME funds for eligible activities and costs or does not have records that show that the PJ used its HOME funds for eligible activities and costs; *and* the PJ has failed to take corrective or remedial action so that the deficiency is a current problem that will affect the eligible use of its new Federal fiscal year HOME allocation. The PJ's eligibility problems may be long-standing or recent.

Any of the following circumstances can be a basis for HUD to reject this certification:

- Repeated or pervasive failure to use HOME funds for eligible activities and costs as evidenced by a report issued by a local, state or federal inspector general or auditor; or
 - Repeated or pervasive failure to use HOME funds for eligible activities and costs as determined by a HUD monitoring review; or
 - Repeated or pervasive failure to document the eligibility of HOME-funded activities; or
 - Repeated or pervasive failure to document the allowability, allocability or reasonableness of costs charged to the HOME program.
3. *Certification that before committing funds to a project, the PJ (or its state recipients) will evaluate the project in accordance with guidelines 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.*

The CPD Director can determine that this certification is inaccurate when the PJ fails to adopt subsidy layering guidelines or when the PJ fails to limit its HOME investment to the amount of funds necessary to provide financially sustainable, quality affordable housing.

Any of the following circumstances can be a basis for HUD to reject this certification:

- Failure to adopt subsidy layering guidelines required by 24 CFR 92.250(b); or
- Failure to undertake the subsidy layering reviews required by 24 CFR 92.250(b); or
- Failure to document that the required subsidy layering review has occurred; or
- Investment of HOME funds in excess of the amount necessary to provide affordable housing, as determined by the PJ's subsidy layering review.

IV. HUD'S PROCEDURES FOR REJECTING A PARTICIPATING JURISDICTION'S HOME CERTIFICATION(S)

The Field Office must follow these procedures before HUD rejects one or more of a PJ's HOME certifications as inaccurate.

1. *Establish the Basis for Rejecting the PJ's HOME certification(s)*

The Field Office must have a documented basis for rejecting one or more of a PJ's HOME certifications as inaccurate. The evidence must relate directly to the assertion made by the PJ in the PJ's HOME certification(s). A PJ's failure to maintain records to support its certification(s) can be a basis for HUD to reject a certification(s) as inaccurate. *However, a PJ's failure to repay disallowed costs is not a basis for HUD to reject a HOME certification(s).* Usually, the Field Office will establish HUD's evidentiary record well before the PJ submits its Plan.

2. *Notify HUD Headquarters Office of Affordable Housing Programs*

The Field Office must notify OAHP as soon as it concludes that one or more of the PJ's HOME certifications may be inaccurate and should be rejected. Whenever possible, the Field Office should contact OAHP at least 30 days before the date that the PJ must submit its Plan to HUD.

OAHP will work with the Field Office to ensure that there is an adequate basis for HUD to reject one or more of a PJ's HOME certification(s) and that the Field Office understands the procedures that must be followed. OAHP will consult with OGC.

3. *Provide the PJ with Due Notice and Opportunity for Comment*

As soon as the Field Office and OAHP concur that there is a sufficient basis to reject one or more of a PJ's HOME certifications, the Field Office must provide the PJ with due notice and opportunity for comment as required by 24 CFR 91.5 *Definition of Certification* and 24 CFR 91.500(b)(3) *Standard of Review*.

The Field Office must provide HUD's due notice to the PJ in a letter from the CPD Director to the PJ's Chief Executive. This letter must inform the PJ of HUD's determination and advise the PJ of HUD's intention to reject one or more of the PJ's HOME certification(s). The letter must provide the PJ with an opportunity to comment and submit evidence to HUD that supports the accuracy of the PJ's certification(s). The required format for this letter is found in Appendix II: *Notice of HUD's Intent to Reject a Participating Jurisdiction's HOME Certification(s)*.

The Field Office must submit its draft letter to OAHP for concurrence. OAHP will consult with OGC and advise the Field Office of any changes to this letter.

The Field Office must receive and review the PJ's comments, and notify the PJ of HUD's approval or disapproval of the HOME portion of the PJ's Plan before HUD's 45-day Plan review period expires. The Field Office is not authorized to extend this deadline. *If the Field Office fails to notify the PJ of HUD's determination before HUD's 45-day deadline, the HOME portion of the PJ's Plan will be deemed approved.*

Normally, the Field Office should provide the PJ with at least 7 to 14 days to respond to HUD's due notice. The Field Office may provide less time when necessary to meet HUD's 45-day deadline.

The Field Office must send this notice to the PJ by registered or express mail, or fax. In addition, the Field Office should call the PJ in order to maximize the time that the PJ has to respond. The Field Office must document that HUD notified the PJ before HUD's 45-day deadline. The Field Office's fax confirmation is sufficient documentation for HUD's records.

4. *Review the PJ's Response and Notify the PJ of HUD's Determination*

As soon as HUD receives the PJ's response to the *Notice of HUD's Intent to Reject a Participating Jurisdiction's HOME Certification(s)*, the Field Office must review the PJ's response and determine whether the PJ has provided sufficient evidence to support the accuracy of the PJ's HOME certification(s). The CPD Director must consult with OAHP and obtain OAHP's concurrence before taking any action.

Approval

When the CPD Director and OAHP agree that the PJ's response supports the accuracy of the PJ's HOME certification(s), the Field Office must approve the HOME portion of the PJ's Plan.

The CPD Director must notify the PJ in writing that HUD is accepting the PJ's HOME certification(s) and approving the HOME portion of the PJ's Plan. This notification can be part of HUD's letter approving the PJ's Plan or a separate letter. The format for this letter should follow Field Office procedures.

The Field Office must notify the PJ of HUD's approval before the end of HUD's 45-day Plan review period. The Field Office is not authorized to extend this deadline. *If the Field Office fails to notify the PJ of HUD's determination before HUD's 45-day deadline, the HOME portion of the PJ's Plan will be deemed approved.*

Disapproval

When the CPD Director and OAHP agree that the PJ's response *does not* support the accuracy of the PJ's HOME certification(s) or when the PJ does not respond to HUD by the deadline, the Field Office must *disapprove* the HOME portion of the PJ's Plan.

The CPD Director must notify the PJ in writing that HUD is rejecting the PJ's HOME certification(s) and disapproving the HOME portion of the PJ's Plan. This notification must be in a letter from the CPD Director to the PJ's Chief Executive. This letter must be separate from the letter notifying the PJ of HUD's actions with respect to the remainder of the PJ's Plan. Although the regulations permit HUD to provide oral notification, written notification provides HUD with the documentation required for its records.

The required format for this letter is found in Appendix III: *Notice of HUD's Rejection of a Participating Jurisdiction's HOME Certification(s) and Disapproval of the Consolidated Plan/Action Plan*. As required by 24 CFR 91.500(c), this letter must state that within 15 days of the date of the letter, HUD will inform the PJ of the reasons for its rejection of the PJ's HOME certification(s) and disapproval of the HOME portion of the PJ's Plan. This letter must also advise the PJ of the specific actions that the PJ can take to meet HUD's approval criteria.

The Field Office must submit its draft letter to OAHP for concurrence. OAHP will consult with OGC and advise the Field Office of any changes to this letter.

The Field Office must send the *Notice of HUD's Rejection of a Participating Jurisdiction's HOME Certification(s) and Disapproval of the Consolidated Plan/Action Plan* to the PJ before HUD's 45-day Plan review period expires. The Field Office is not authorized to extend this deadline. *If the Field Office fails to notify the PJ of HUD's determination before HUD's 45-day deadline, the HOME portion of the PJ's Plan will be deemed approved.*

The Field Office must send this notice to the PJ by registered or express mail, or by fax. The Field Office must document that HUD notified the PJ before HUD's 45-day deadline. The Field Office's fax confirmation is sufficient documentation for HUD's records.

HUD's rejection of a PJ's HOME certification and disapproval of the HOME portion of the PJ's Plan delays the award of the PJ's Federal fiscal year HOME allocation until the PJ meets HUD's approval criteria.

5. *Notify the PJ of the Reasons for HUD's Rejection of the PJ's HOME Program Certification(s) and Required Actions*

As required by 24 CFR 91.500(c), within 15 days after HUD notifies the PJ that HUD is disapproving the HOME portion of the PJ's Plan by sending the *Notice of HUD's Rejection of a Participating Jurisdiction's HOME Certification(s) and Disapproval of the Consolidated Plan/Action Plan*, the Field Office must notify the PJ in writing of the reasons for HUD's action. The Field Office must also advise the PJ of the corrective actions that the PJ can take to meet HUD's criteria for accepting the HOME certification(s) and approving the HOME portion of the PJ's Plan.

The actions that HUD requires must ensure that the PJ will use its new Federal fiscal year HOME allocation in accordance with the HOME statute and regulations covered by the PJ's HOME certification(s). For example, the Field Office could require the PJ to revise its HOME activity design, establish and follow specific HOME program policies and procedures, or demonstrate that the PJ has adequate staff capacity to use its HOME funds for eligible activities and costs in compliance with the HOME requirements.

The Field Office must provide HUD's notification to the PJ in a letter from the CPD Director to the PJ's Chief Executive. The required format for this letter can be found in *Appendix IV: Notice of the Reasons for HUD's Rejection of a Participating Jurisdiction's HOME Certification(s) and Required Action*.

The Field Office must submit its draft letter to OAHP for concurrence. OAHP will consult with OGC, as necessary, and advise the Field Office of any changes to this letter.

The Field Office must send the *Notice of HUD's Reasons for Rejection of a Participating Jurisdiction's HOME Certification(s) and Required Action* before HUD's 15-day notification deadline expires. The Field Office is not authorized to extend this deadline. *If the Field Office fails to notify the PJ before HUD's 15-day deadline, the HOME portion of the PJ's Plan will be deemed approved.*

The Field Office must send this notice to the PJ by registered or express mail, or by fax. The Field Office must document that HUD notified the PJ before HUD's 15-day deadline. The Field Office's fax confirmation is sufficient documentation for HUD's records.

V. HUD'S RESPONSE TO A PARTICIPATING JURISDICTION'S REQUIRED ACTION

As required by 24 CFR 91.500(d), the PJ has 45 days after the date of HUD's first notice to respond to the *Notice of the Reasons for HUD's Rejection of a Participating Jurisdiction's HOME Certification(s) and Required Action* and to revise or resubmit its Plan. This period is statutory. However, HUD will consider the PJ's response even if it is not submitted within 45 days.

No later than 30 days after HUD receives the PJ's response HUD must review this response, approve or disapprove the PJ's Plan and notify the PJ of HUD's action. The Field Office must consult with OAHP and obtain OAHP's concurrence before taking any action. OAHP will work with the Field Office and OGC to ensure that there is an adequate basis for HUD's determination.

Approval

When the Field Office and OAHP concur that the PJ's response meets HUD's criteria for Plan approval, the CPD Director must notify the PJ's Chief Executive in writing that HUD accepts the PJ's HOME certification(s) and approves the HOME portion of the PJ's Plan. There is no

required format for this letter. However, the Field Office must explain the basis for HUD's determination.

The Field Office must notify the PJ of HUD's approval before HUD's 30-day notification deadline. The Field Office is not authorized to extend this deadline. The Field Office must send this letter by registered or express mail, or by fax. The Field Office must document that HUD notified the PJ before HUD's 30-day deadline. The Field Office's fax confirmation is sufficient documentation for HUD's records.

Disapproval

When the Field Office and OAHP concur that the PJ's response *does not* meet HUD's criteria for Plan approval, the CPD Director must notify the PJ's Chief Executive in writing that HUD continues to *reject* the PJ's HOME certification(s) and *disapprove* the HOME portion of the PJ's Plan. There is no required format for this letter. However, the letter must explain the basis for HUD's determination, identify the additional corrective actions that the PJ can take, and establish a timeframe for the PJ's response.

The Field Office must submit its draft letter to OAHP for concurrence. OAHP will consult with OGC, as necessary, and advise the Field Office of any changes to this letter.

The Field Office must notify the PJ of HUD's disapproval before HUD's 30-day notification deadline expires. The Field Office is not authorized to extend this deadline. The Field Office must send this letter by registered or express mail, or by fax. The Field Office must document that HUD notified the PJ before HUD's 30-day deadline. The Field Office's fax confirmation is sufficient documentation for HUD's records.

When the Field Office and OAHP concur that the PJ's evidence *does not* meet HUD's criteria for approval, the Field Office must continue to follow the procedures described in Section V of this Notice, until HUD determines that the PJ has taken actions that render the PJ's HOME certification(s) acceptable to HUD. There are no required formats or mandatory deadlines for HUD's subsequent reviews and responses. However, the Field Office should complete its review and respond to the PJ in a timely manner. The Field Office must continue to consult with OAHP and obtain OAHP's concurrence before taking any action.

VI. A PARTICIPATING JURISDICTION'S FAILURE TO TAKE REQUIRED ACTION BEFORE THE NEXT FISCAL YEAR

When a PJ fails to take corrective action before the submission of the PJ's Plan for the next Federal fiscal year's HOME allocation, HUD must reject the PJ's *new* Federal fiscal year HOME certification(s) as inaccurate and disapprove the HOME portion of the PJ's *new* Federal fiscal year Plan. The Field Office must follow the procedures and timetable required by this Notice.

HUD's rejection of a PJ's HOME certification(s) and disapproval of the HOME portion of the PJ's Plan for the new Federal fiscal year will result in HUD's withholding the PJ's HOME allocation for *both* Federal fiscal years. Before HUD will approve the HOME portion of both

Federal fiscal year Plans, the PJ must take actions that meet HUD's approval criteria. A PJ may need to revise and resubmit one or both Plans before HUD can approve them.

VII. TIMELINE

The Consolidated Plan regulations at 24 CFR 91.500 establish strict deadlines for HUD's approval or disapproval of a PJ's Plan submission. Appendix I: *Timeline* summarizes the required timeline that a Field Office must follow when the Field Office determines that there is sufficient evidence for HUD to reject one or more of a PJ's HOME certification(s) and disapprove the HOME portion of a PJ's Plan.

VIII. REQUIRED HUD NOTIFICATIONS

The following appendices provide the format for the required HUD notifications to the PJ:

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|--------------|---|
| Appendix II | <i>Notice of HUD's Intent to Reject a Participating Jurisdiction's HOME Certification(s)</i> |
| Appendix III | <i>Notice of HUD's Rejection of a Participating Jurisdiction's HOME Certification(s) and Disapproval of the Consolidated Plan/Action Plan</i> |
| Appendix IV | <i>Notice of the Reasons for HUD's Rejection of a Participating Jurisdiction's HOME Certification(s) and Required Action</i> |

The information collection requirements contained in this CPD Notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1945 (44 U.S.C. 3501-3520) and assigned OMB control number 2506-0117. In accordance with the paperwork reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

**APPENDIX I
TIMELINE**

ACTION	DEADLINE	BASIS
FO Inspection of Available Evidence	Before the Consolidated Plan/Action Plan is submitted, if possible, or during the 45-calendar day review period.	§91.500(b)
FO Notification of OAHP	As soon as the FO concludes that it has sufficient evidence to reject a PJ's HOME certification(s).	
Consolidated Plan/Action Plan Submission	At least 45-calendar days before the start of the consolidated program year.	§91.15(a)
Deadline for HUD approval or disapproval	No later than 45-calendar days after receipt of the PJ's Consolidated Plan/Action Plan.	§91.500(a)
<i>Notice of HUD's Intent to Reject a Participating Jurisdiction's HOME Program Certification(s) (Due Notice and Opportunity for Comment)</i>	As soon as possible after receipt of the Consolidated Plan/Action Plan; HUD must allow time for the PJ to respond before the end of the 45-calendar day HUD review period.	§91.5 §91.500(b)(3)
<i>Notice of HUD's Rejection of a Participating Jurisdiction's HOME Certification(s) and Disapproval of the Consolidated Plan/Action Plan</i>	No later than 45-calendar days after receipt of the PJ's Consolidated Plan/Action Plan.	§91.500(a)
<i>Notice of the Reasons for HUD's Rejection of a Participating Jurisdiction's HOME Certification(s) and Required Action</i>	No later than 15-calendar days after the <i>Notice of HUD's Rejection of a Participating Jurisdiction's HOME Certification(s) and Disapproval of the Consolidated Plan/Action Plan.</i>	§91.500(c)
Deadline for HUD's review of the PJ's response and submission of action*	No later than 30-calendar days after HUD receives the PJ's response to the <i>Notice of the Reasons for HUD's Rejection of a Participating Jurisdiction's HOME Certification(s) and Required Action.</i>	§91.500(d)

*Note: Subsequent PJ submissions and HUD responses are not subject to any statutory deadlines

APPENDIX II
NOTICE OF HUD’S INTENT TO REJECT A PARTICIPATING JURISDICTION’S
HOME CERTIFICATION(S)

Dear Mayor/County Executive/Governor_____:

SUBJECT: Notice of Intent to Reject Fiscal Year *[insert FY]* HOME Program Certification(s)
[Insert PJ Name]

This is to notify *[insert PJ Name]* that HUD intends to reject the City’s *[County’s/ State’s/ Consortium’s]* FY *[insert FY]* HOME program certification(s) submitted with the City’s *[County’s/State’s/ Consortium’s]* FY *[insert FY]* Consolidated Plan *[Action Plan]*. This action is being taken following consultation between this Office and HUD Headquarters. In accordance with 24 CFR 91.500, HUD may reject a certification if it determines that the certification is inaccurate after providing the jurisdiction with due notice and an opportunity for comment. 24 CFR 91.5 defines “certification” to mean a written assertion based on supporting evidence that must be kept available for inspection by HUD, the Inspector General of HUD and the public. The assertion shall be deemed to be accurate unless HUD determines otherwise after inspecting the evidence and providing the jurisdiction with due notice and opportunity for comment.

HUD’s intention to reject the *[Insert PJ Name]* HOME program certification(s) is based on HUD’s inspection of evidence available to HUD that relates to the HOME program certification(s) required by 24 CFR 91.225.

[Use one or both of the following two paragraphs, as applicable]

[Insert PJ Name] certified pursuant to 24 CFR 91.225(d)(2) *[or 91.325(d)(2) or 91.425(d)(2)]* that it is using and will use HOME funds for eligible activities and costs as described in 24 CFR 92.205 through 92.209, and that it is not using and will not use HOME funds for prohibited activities as described in 24 CFR 92.214. The City *[County/ State/ Consortium]* failed to demonstrate its use of HOME funds for eligible activities and costs and to satisfactorily document eligibility and costs according to the HOME regulations at 24 CFR 92.508(a). *[Describe the basis for HUD’s conclusion];*

[and/or]

[Insert PJ Name] certified pursuant to 24 CFR 91.225(d)(3) *[or 91.325(d)(3) or 91.425(d)(3)]* that, before committing funds to a project, it will evaluate the project in accordance with guidelines 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. This requirement is also found in 24 CFR 92.250(b) and 24 CFR 92.508(a)(3)(iii) of the HOME regulations. The City *[County/State/Consortium]* failed to demonstrate that it has performed or will perform the required evaluation. *[Describe the basis for HUD’s conclusion]*

HUD is providing *[Insert PJ Name]* with an opportunity for comment before HUD

makes its final determination that the certification is inaccurate. A written response must be provided to my office, along with specific evidence supporting the City's [County's/State's/Consortium's] certification made in the FY [insert FY] Consolidated Plan [Action Plan] dated [insert date] by [insert deadline date]. If you fail to respond or to provide sufficient evidence that supports the City's [County's/State's/Consortium's] HOME program certification(s), HUD will determine the certification is inaccurate and will disapprove the HOME portion of the City's [County's/State's/Consortium's] FY [insert FY] Consolidated Plan [Action Plan].

If you have any questions, please contact [insert FO Contact Information]

To be signed by the Field Office CPD Director

APPENDIX III
NOTICE OF HUD'S REJECTION OF A PARTICIPATING JURISDICTION'S HOME
CERTIFICATION(S)
AND DISAPPROVAL OF THE CONSOLIDATED PLAN/ACTION PLAN

Dear Mayor/County Executive/ Governor _____:

SUBJECT: Notice of Rejection of Fiscal Year *[insert FY]* HOME Program Certification(s)
Disapproval of FY *[insert FY]* Consolidated Plan/Action Plan: HOME Portion
[Insert PJ Name]

This Office and HUD Headquarters have reviewed *[insert PJ Name]* response dated *[insert response date]* to HUD's *[insert letter date]* letter regarding its intention to reject the City's *[County's/ State's/ Consortium's]* FY *[insert FY]* HOME program certification(s). The City's *[County's/State's/Consortium's]* response provided insufficient evidence to support the accuracy of the City's *[County's/ State's/Consortium's]* FY *[insert FY year]* HOME program certification(s). Therefore, HUD is rejecting the City's *[County's/ State's/ Consortium's]* FY *[insert FY]* HOME program certification(s). In accordance with 24 CFR 91.500, HUD is also disapproving the HOME portion of the City's *[County's/ State's/ Consortium's]* FY *[insert FY]* Consolidated Plan *[Action Plan]*.

HUD's disapproval of the HOME portion of the *[insert PJ name]* FY *[insert FY]* Consolidated Plan/Action Plan will delay the award of the City's *[County's/ State's/ Consortium's]* FY *[insert FY]* HOME funds allocation until such time as the City *[County/State/ Consortium]* can provide HUD with satisfactory evidence supporting the accuracy of its FY *[insert FY]* HOME program certification(s). Within 15-calendar days of this notice, HUD will inform the City *[County/ State/ Consortium]* in writing of the specific reasons for HUD's rejection of the City's *[County's/ State's/Consortium's]* FY *[insert FY]* HOME program certification(s) and disapproval of the HOME portion of the City's *[County's/ State's/ Consortium's]* FY *[insert FY]* Consolidated Plan/Action Plan. HUD will also inform the City *[County/ State/ Consortium]* of the actions it can take to meet the HUD's criteria for approval.

This notice of rejection and disapproval applies only to the HOME portion of *[insert PJ name]* FY *[insert FY]* Consolidated Plan *[Action Plan]*. This rejection and disapproval does not apply to the other Community Planning and Development formula programs covered by the City's *[County's/ State's/Consortium's]* FY *[insert FY]* Consolidated Plan *[Action Plan]* submission. The following Community Planning and Development Programs *are not covered* by this disapproval *[list programs that are not covered]*:

If you have any questions, please contact *[insert FO Contact Information]*.

To be signed by the Field Office CPD Director

APPENDIX IV
NOTICE OF THE REASONS FOR HUD'S REJECTION OF A PARTICIPATING
JURISDICTION'S HOME CERTIFICATION(S) AND REQUIRED ACTION

Dear Mayor/County Executive/Governor _____:

SUBJECT: Reasons for Disapproval and Required Action
Fiscal Year *[insert FY year]* Consolidated Plan/Action Plan: HOME Portion
[Insert PJ Name]

HUD's letter dated *[insert letter date]* notified *[insert PJ name]* that HUD has rejected the City's *[County's/ State's/ Consortium's]* FY *[insert FY]* HOME program certification(s) and disapproved the HOME portion of the City's *[County's/ State's/ Consortium's]* FY *[insert FY]* Consolidated Plan *[Action Plan]*. Pursuant to 24 CFR 91.500(c), HUD is providing you with this notice to inform you of the specific reasons for rejection and disapproval, and the actions that the City *[County/ State/ Consortium]* can take to meet HUD's criteria for approval.

HUD disapproved the HOME portion of the *[insert PJ name]* FY *[insert FY]* Consolidated Plan *[Action Plan]* because it determined that there was insufficient evidence to support the City's *[County's/ State's/ Consortium's]* HOME program certification(s).

[Use one or both of the following two paragraphs, as applicable]

[Insert PJ name] certified pursuant to 24 CFR 91.225(d)(2) *[or 91.325(d)(2) or 92.425(d)(2)]* that it is using and will use HOME funds for eligible activities and costs as described in 24 CFR 92.205 through 92.209, and that it is not using and will not use HOME funds for prohibited activities as described in 24 CFR 92.214. The City *[County/ State/ Consortium]* failed to demonstrate its use of HOME funds for eligible activities and costs and to satisfactorily document eligibility and costs according to the HOME regulations at 24 CFR 92.508(a). *[Describe the basis for HUD's conclusion];*

[and/or]

[Insert PJ name] certified pursuant to 24 CFR 91.225(d)(3) *[or 91.325(d)(3) or 92.425(d)(3)]* that, before committing funds to a project, it will evaluate the project in accordance with guidelines 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. This requirement is also found in 24 CFR 92.250(b) and 24 CFR 92.508(a)(3)(iii) of the HOME regulations. The City *[County/ State/ Consortium]* failed to demonstrate that it has performed or will perform the required evaluation. *[Describe the basis for HUD's conclusion]*

In order for HUD to approve the HOME portion of *[insert PJ's name]* FY *[insert FY]* Consolidated Plan *[Action Plan]*, the City *[County/ State/ Consortium]* must provide acceptable evidence to support the accuracy of the City's *[County's/ State's/ Consortium's]* FY *[insert FY]*

HOME program certification(s). HUD will reconsider accepting the City's [County's/ State's/ Consortium's] FY [insert FY] HOME program certification(s) when the City [County/ State/ Consortium] has submitted the following documentation and HUD has determined that the City's [County's/ State's/ Consortium's] evidence is acceptable.

[Identify the actions that must be taken and the specific documentation that must be submitted]

Pursuant to 24 CFR 91.500(d), [insert PJ name] should submit its documentation within 45-calendar days of HUD's [insert letter date] letter notifying the City [County/ State/ Consortium] that HUD has rejected the City's [County's/ State's/ Consortium's] FY [insert FY] HOME program certification(s) and disapproved the HOME portion of the City's [County's/ State's/ Consortium's] FY [insert FY] Consolidated Plan [Action Plan], or by [insert deadline date].

If you have any questions, please contact [insert FO Contact Information].

To be signed by the Field Office CPD Director