

§ 91.320

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.* The consolidated plan must provide a concise summary of the institutional structure, including businesses, developers, nonprofit organizations, philanthropic organizations, community-based and faith-based organizations, the Continuum of Care, and public institutions, departments, and agencies through which the State will carry out its housing, homeless, and community development plan; a brief assessment of the strengths and gaps in that delivery system; and 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 jurisdiction's activities to enhance coordination among Continuums of Care, public and assisted housing providers, and private and governmental health, mental health, and service agencies. The summary must include the jurisdiction's efforts to coordinate housing assistance and services for homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) and persons who were recently homeless but now live in permanent housing. 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

24 CFR Subtitle A (4–1–24 Edition)

low-income and moderate-income families.

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§ 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 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.* (1) The State must describe its one-year goals and specific actions steps for reducing and ending homelessness through:

(i) Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs;

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

(iii) Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unac-

companied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again; and

(iv) Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families who are:

(A) Being discharged from publicly funded institutions and systems of care (such as health-care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or

(B) Receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

(2) The State must specify the activities that it plans to undertake during the next year to address the housing and supportive service needs identified in accordance with §91.315(e) with respect to persons who are not homeless but have other special needs.

(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 allocation plans and policies governing the use of Low-Income Housing Credits under 26 U.S.C. 42, which are more commonly referred to as Low-Income Housing Tax Credits), 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

§ 91.320

public housing (including providing financial or other assistance to troubled PHAs), and encourage public housing residents to become more involved in management and participate in home-ownership.

(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 must 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 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 on, 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.

(ii) 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 total CDBG resources to be described in the action plan include all of the following:

(A) The CDBG origin year grant.

(B) Any program income expected to be returned to the State in accordance with 24 CFR 570.489(e)(3)(i) in the program year or not included in a prior action plan, and any program income expected to be received by any State revolving fund in accordance with 24 CFR 570.489(f)(2) in the program year or not included in a prior action plan.

(C) Reimbursements, other than program income, made to a local account.

(iii) 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

24 CFR Subtitle A (4-1-24 Edition)

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.

(iv) If the State permits units of general local government to retain program income per 24 CFR 570.489(e)(3) or establish local revolving funds per 24 CFR 570.489(f)(1), the State must include a description of each of the local accounts including the name of the local entity administering the funds, contact information for the entity administering the funds, the amounts expected to be available during the program year, the eligible activity type(s) expected to be carried out with the program income, and the national objective(s) served with the funds.

(iv) HUD may monitor the method of distribution as part of its audit and review responsibilities, as provided in 24 CFR 570.493(a)(1), in order to determine compliance with program requirements.

(2) *HOME.* (i) The HOME program resources that the State must describe in the action plan are the fiscal year HOME allocation plus the amount of program income, repayments, and recaptured funds in the State's HOME Investment Trust Fund local account (see 24 CFR 92.500(c)(1)) at the beginning of the State's program year. The State may choose to include program income, repayments, and recaptured funds that are expected to be received during the program year if the State plans to commit these funds during the program year.

(ii) The State shall describe other forms of investment that are not described in 24 CFR 92.205(b). HUD's specific written approval is required for other forms of investment, as provided in §92.205(b). Approval of the consolidated plan or action plan under §91.500 or the failure to disapprove the consolidated plan or action plan does not satisfy the requirement for specific HUD approval for resale or recapture guidelines.

(iii) If the State intends to use HOME funds for homebuyers, it must set forth the guidelines for resale or recapture,

and obtain HUD's specific, written approval, as required in 24 CFR 92.254. Approval of the consolidated plan or action plan under § 91.500 or the failure to disapprove the consolidated plan or action does not satisfy the requirement for specific HUD approval for other forms of investment.

(iv) 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 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.

(v) If the participating jurisdiction intends to use HOME funds for homebuyer assistance or for rehabilitation of owner-occupied single family housing and does not use the HOME affordable homeownership limits for the area provided by HUD, it must determine 95

percent of the median area purchase price and set forth the information in accordance with 24 CFR 92.254(a)(2)(iii).

(vi) The State must describe eligible applicants (e.g., categories of eligible applicants), describe its process for soliciting and funding applications or proposals (e.g., competition, first-come first-serve; subgrants to local jurisdictions) and State where detailed information may be obtained (e.g., application packages are available at the office of the State or on the State's Web site).

(vii) The participating jurisdiction may limit the beneficiaries or give preferences to a particular segment of the low-income population only if described in the action plan.

(A) Any limitation or preference must not violate nondiscrimination requirements in 24 CFR 92.350, and the participating jurisdiction must not limit or give preferences to students.

(B) A limitation or preference may include, in addition to targeting tenant-based rental assistance to persons with special needs as provided in 24 CFR 92.209(c)(2), limiting beneficiaries or giving preferences to persons in certain occupations, such as police officers, firefighters, or teachers.

(C) The participating jurisdiction must not limit beneficiaries or give a preference to all employees of the jurisdiction.

(D) The participating jurisdiction may permit rental housing owners to limit tenants or give a preference in accordance with 24 CFR 92.253(d) only if such limitation or preference is described in the action plan.

(viii) 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

§ 91.320

24 CFR Subtitle A (4-1-24 Edition)

(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*. (i) The State must either include its written standards for providing Emergency Solutions Grant (ESG) assistance or describe its requirements for its subrecipients to establish and implement written standards for providing ESG assistance. The minimum requirements regarding these standards are set forth in 24 CFR 576.400(e)(2) and (e)(3).

(ii) For each area of the State in which a Continuum of Care has established a centralized or coordinated assessment system that meets HUD requirements, the State must describe that centralized or coordinated assessment system. The requirements for using a centralized or coordinated assessment system, including the exception for victim service providers, are set forth under 24 CFR 576.400(d).

(iii) The State must identify its process for making subawards and a description of how the State intends to make its allocation available to units of general local government and private nonprofit organizations, including community and faith-based organizations.

(iv) The State must describe the performance standards for evaluating ESG activities.

(v) The State must describe its consultation with each Continuum of Care in determining how to allocate ESG funds each program year; developing the performance standards for, and evaluating the outcomes of, projects and activities assisted by ESG funds; and developing funding, policies and procedures for the administration and operation of the HMIS.

(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).

(5) *Housing Trust Fund*. The action plan must include the HTF allocation plan that describes the distribution of the HTF funds, and establishes the application requirements and the criteria for selection of applications submitted by eligible recipients that meet the State's priority housing needs. The plan must also establish the State's maximum per-unit development subsidy limit for housing assisted with HTF funds. If the HTF funds will be used for first-time homebuyers, it must State the guidelines for resale and recapture as required in 24 CFR 93.304. The plan must reflect the State's decision to distribute HTF funds through grants to subgrantees and/or to select applications submitted by eligible recipients. If the State is selecting applications submitted by eligible recipients, the plan must include the following:

(i) The plan must provide priority for funding based on geographic diversity (as defined by the State in the consolidated plan); the applicant's ability to obligate HTF funds and undertake eligible activities in a timely manner; in the case of rental housing projects, the extent to which the project has Federal, State, or local project-based rental assistance so that rents are affordable to extremely low-income families; in the case of rental housing projects, the duration of the units' affordability period; the merits of the application in meeting the priority housing needs of the State (such as housing that is accessible to transit or employment centers, housing that includes green building and sustainable development features, or housing that serves special needs populations); and the extent to which the application makes use of non-federal funding sources.

(ii) The plan must include the requirement that the application contain a description of the eligible activities to be conducted with the HTF funds (as provided in 24 CFR 93.200) and contain a certification by each eligible recipient that housing units assisted with

the HTF will comply with HTF requirements. The plan must also describe eligibility requirements for recipients (as defined in 24 CFR 93.2).

(iii) The plan must provide for performance goals and benchmarks against which the State will measure its progress, consistent with the State's goals established under 24 CFR 91.315(b)(2).

(iv) The plan must include the State's rehabilitation standards, as required by 24 CFR 93.301(b)(1).

(v) If the State intends to use HTF funds for first-time homebuyers, it must set forth the guidelines for resale or recapture, and obtain HUD's specific, written approval, as required in §93.304(f). Approval of the consolidated plan or action plan under §91.500 or the failure to disapprove the consolidated plan or action does not satisfy the requirement for specific HUD approval for resale or recapture guidelines.

(vi) If the State intends to use HTF funds for homebuyer assistance and does not use the HTF affordable homeownership limits for the area provided by HUD, it must determine 95 percent of the median area purchase price and set forth the information in accordance with §93.305.

(vii) The State may limit the beneficiaries or give preferences to a particular segment of the extremely low- or very low-income population only if described in the action plan.

(A) Any limitation or preference must not violate nondiscrimination requirements in 24 CFR 93.350, and the State must not limit or give preferences to students.

(B) The State may permit rental housing owners to limit tenants or give a preference in accordance with 24 CFR 93.303(d)(3) only if such limitation or preference is described in the action plan.

(viii) The plan must describe the conditions under which the State will refinance existing debt.

[71 FR 6969, Feb. 9, 2006, as amended at 76 FR 75972, Dec. 5, 2011; 78 FR 44664, July 24, 2013; 80 FR 5220, Jan. 30, 2015; 80 FR 42365, July 16, 2015; 80 FR 69869, Nov. 12, 2015; 81 FR 86951, Dec. 1, 2016; 85 FR 47909, Aug. 7, 2020]

§ 91.325 Certifications.

(a) *General*—(1) *Affirmatively furthering fair housing*. Each State is required to submit a certification, consistent with §§5.151 and 5.152 of this title, that it will affirmatively further fair housing.

(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 75.

(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