

Supporting Statement for Paperwork Reduction Act Submissions

HOME Investment Partnerships Program Reporting and Recordkeeping to be made by Final Rule entitled “Improving Performance and Accountability: Updating Property Standards” (FR-5563)

This is really a reinstatement with change

A. Justification

1. Circumstances that make the collection of information necessary.

Public Law 101-625 (104 Stat. 4079), Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, (Act) established the HOME Investment Partnerships Program (HOME) (also referred to as the HOME authorizing statute). Under the HOME Program, HUD allocates funds by formula among eligible units of State and local governments to strengthen public-private partnerships for the production of affordable housing for low-income families. Participating jurisdictions (PJs) use HOME funds directly to carry out housing activities and provide funds to other eligible entities, such as Community Housing Development Organizations (CHDOs) and other nonprofit and for-profit developers. State PJs may administer their HOME programs directly, suballocate funds to local governments (State recipients) or combine the two approaches. HOME funds are used to leverage private investment in affordable housing. PJs are required to match Federal HOME funds with State, local or private funds and resources. PJs and other entities may use HOME funds to carry out multi-year housing strategies with a variety of eligible uses, including rehabilitation and substantial rehabilitation of substandard housing, new construction and tenant-based rental assistance. PJs and other eligible entities may provide HOME assistance in a number of eligible forms, including grants, loans, loan guarantees, advances, equity investments, interest subsidies and other forms of investment.

The HOME statute imposes a number of data collection and reporting requirements on the Department and on program participants. Information on assisted properties as well as on the owners or tenants of the properties is needed to fulfill the statutory requirements. This burden includes making the information available to HUD for monitoring the performance of the program participants and ensuring compliance with all program requirements. While the narrative requirements for the HOME Program annual performance report have been moved to the Consolidated Plan rule (24 CFR Part 91), the Department is continuing to require that two reporting forms (HUD 40107 and HUD 40107A) be submitted under Part 92.

The data collection elements addressed in this document arise from changes that HUD has proposed to the HOME program regulations in 24 CFR part 92, through rulemaking that commenced with a December 16, 2011 proposed rule, published at 76 FR 78344. HUD intends to codify these changes through a final rule that takes into consideration the public comments received on the December 16, 2011, proposed rule. This final rule constitutes the first significant amendments to the HOME regulations in 16 years. The final rule will amend the HOME regulations to address many of the operational challenges facing participating jurisdictions, particularly challenges related to recent housing market conditions and the alignment of federal housing programs. The final rule will also clarify certain existing regulatory requirements and establish new requirements designed to enhance accountability by States and units of local government in the use of HOME funds, strengthen performance standards and require more timely housing production. The final rule will also update property standards applicable to housing assisted by HOME funds.

With respect to reporting and recordkeeping, the final rule would make changes to the following sections of the HOME regulations, as provided in the December 16, 2011, proposed rule.

2. How the information is used.

HUD requires state and local PJs to collect information on the activities undertaken with HOME funds. The new HOME Program Oversight rule will require changes with respect to reporting and recordkeeping, which should increase accountability for the program.

The new rule (at § 91.320) requires a participating jurisdiction to include in its action plan its calculation of 95 percent of the median area purchase, in accordance with the criteria and formula provided in § 92.254(a)(2)(iii). The new rule would also require participating jurisdictions to include more information about the expenditure of HOME program funds in their

action plans. The inclusion of more information about the participating jurisdiction's planned expenditure of HOME funds not only assists HUD in its monitoring of the jurisdiction's expenditure of taxpayers' funds, but allows the citizens of the jurisdiction to weigh in with their views on the proposed expenditures as part of citizens' participation in the development and review of the consolidated plan.

Terminated projects are defined, at § 92.205, as projects not completed within four years from the date of project completion. In the event that a project is not completed within these time frames, the participating jurisdiction may request a 12-month extension of the completion deadline by submitting information about the status of the project, steps being taken to overcome any obstacles to completion, proof of adequate funding to complete the project, and a schedule with milestones for completion of the project for HUD's review and approval.

Section 92.252 of the new rule imposes new reporting requirements in limited situations when a Participating Jurisdiction has created rental units that are not leased to an eligible tenant within the specified time frame. HUD will require the participating jurisdiction to provide information about current marketing efforts and, if appropriate, a plan for marketing the unit so that it is leased as quickly as possible.

Section 92.254(f) of the new rule requires the participating jurisdiction to have and follow written policies for underwriting standards for homeownership assistance, anti-predatory lending, and refinancing loans to which HOME loans are subordinated to ensure that the terms of the new loan are reasonable.

The new rule (at § 92.351) requires documentation by participating jurisdictions that HOME assisted rental housing must be affirmatively marketed without regard to whether the potential tenant has rental assistance. Corresponding changes would also be made to the provisions on written agreements (§ 92.504)

Section 92.508 alters the recordkeeping requirements for required subsidy layering and underwriting.

Section 92.203 will change the documentation required for income determinations and result in a reduction in recordkeeping because the amount of past income documentation has been reduced.

In cases of troubled projects, the new rule (at § 92.210) will add provisions that would be applicable to the efforts of participating jurisdictions to preserve HOME-assisted housing projects that have become financially unviable and, as a result, are at risk of failure or foreclosure. HUD has provided expert work-out technical assistance to a number of participating jurisdictions with projects that became troubled due to excessive debt, unsustainably high operating costs, poor physical conditions, or weak market conditions, and that were then able to avert foreclosure and were returned to financial viability. These workouts involved restructuring of private debt, investment of additional owner equity, and altering the terms of existing HOME financing. It is anticipated that the reporting requirements of this process will be less time consuming than a waiver process.

HUD is adding several revisions to the property standards applicable to HOME-assisted properties under § 92.251. Participating jurisdictions will be required to have written rehabilitation standards, including requirements for methods and materials to be used, to conduct inspections for both new construction and rehabilitation projects to ensure that work is performed in compliance with requirements. These provisions require increased recordkeeping to be tailored to either New Construction (§ 92.251(a) or Rehabilitation Projects (§ 92.251(b)) requirements.

HUD is adding a sentence to § 92.252(f)(2) to require that a participating jurisdiction must review and approve the rents for its HOME assisted rental projects each year to ensure that they comply with the HOME limits and do not result in undue increases from the previous year. Participating jurisdictions are currently required to provide the published maximum HOME rents to project owners and then to examine reports submitted by owners outlining for each HOME unit the rent being charged and the income of the tenant. The additional step codifies existing practice of most participating jurisdictions, which do not permit HOME project owners to raise rents without approval or to charge the maximum permissible HOME rent.

The new rule adds language to § 92.252(j) to specify that the written agreement between the participating jurisdiction and a project owner must state whether HOME rental units will be fixed or floating during the period of affordability. The existing regulations state that the designation of whether units will be fixed or floating must be made at the time of commitment (i.e., the point at which the written agreement is signed). However, HUD has found that participating

jurisdictions are not always documenting the determination or including the specific designation in its written agreement, sometimes resulting in uncertainty among owners.

The new rule would also amend § 92.254(a)(5)(i) to require the participating jurisdiction's resale requirements to specifically define "fair return on investment" and "affordability to a reasonable range of low-income buyers," and to address how it will make the housing affordable if the resale price that is needed for a fair return on investment is too high to be within the affordable range. Section 215(b)(3)(A) of NAHA specifically requires resale provisions to provide a fair return and remain affordable for a reasonable range of low-income buyers. Requiring participating jurisdictions to develop specific standards for these requirements will improve their ability to design resale requirements that meet statutory and regulatory requirements.

HUD is changing the rule to add a provision to § 92.502(a) that would clarify that participating jurisdictions are required to report all program income earned on HOME funds in the Integrated Disbursement and Information System (IDIS). HUD has found that some participating jurisdictions are not consistently reporting program income they earn in IDIS and are not always expending program income before drawing down additional HOME funds from their HOME Treasury Accounts.

Section 92.504(a) is being revised to require participating jurisdictions to develop and follow written policies, procedures, and systems, including a system for assessing risk of activities and projects and a system for monitoring entities, to ensure that the requirements of this part are met. While the existence of such written policies and procedures does not guarantee that a participating jurisdiction's program will be compliant and efficient, HUD's monitoring has shown that the absence of or failure to follow systemic program procedures for assessing risk and monitoring participating entities is strongly correlated with poor performance and noncompliance with HOME regulations.

Section 92.504(c) will be revised to require that written agreements between state participating jurisdictions and state recipients would include a provision to carry out the existing requirement in § 92.201(b)(3)(i). Under the existing requirement, states must require the state recipient to comply with either requirements established by the State or, alternatively, may require the state recipient to establish and comply with its own requirements to comply with part 92. The revision would specify that under either alternative, the requirements must include provisions for income determinations, underwriting and subsidy layering review, rehabilitation standards, refinancing standards, homebuyer program policies, and affordability.

Section 92.504(c)(1)(i) will be revised to require agreements with state recipients to include greater detail about the state recipients' use of HOME funds, including amounts and uses for specific programs and activities, the number of housing projects to be funded, and any requirements for matching contributions. Under § 92.504(c)(1), the agreement would be required to specify whether repaid and recaptured HOME funds must be returned to the state or retained by the state recipient and expended on eligible activities. Section 92.504(c)(1)(xi) would be revised to clarify that the written agreement required under that paragraph as a condition of providing HOME funds to other entities and persons must be in place before the HOME funds are provided, and new § 92.504(c)(1)(xiii) would require inclusion of a provision to implement the prohibition on charging fees in § 92.214(b), as revised under this rule.

HUD is also adding a new paragraph at § 92.504(d)(2) to require participating jurisdictions to examine, at least annually during the HOME period of affordability, the financial condition of rental projects with at least 10 HOME-assisted units.

3. Improved technology.

The collection of HOME Program information (collection of data on funds management, project and tenant characteristics, and owner data) has been automated by IDIS. IDIS eliminates the need for PJs to submit paper reports. The submission of Action Plan related documents by PJs to the Field Office is also automated. All of the data elements of the IDIS systems and Consolidated Plan are required under Title II or related authorities.

4. Efforts to identify duplication.

No similar information exists. The information collected through IDIS is project-specific and, therefore, unique to each PJ's local HOME program. Other recordkeeping requirements (e.g., property standards, written agreements, tenant protections) are project- or program-specific and unique to local HOME programs. Documentation relating to nondiscrimination, displacement and relocation and lead-based paint are unique to individual program designs and do not result in duplication of effort.

5. Burden to small business or small entities.

None.

6. Consequences if information is collected less frequently.

The information is collected on a project-by-project basis to permit PJs to draw down HOME funds from the U.S. Treasury and to ensure that HOME funds are used for eligible purposes. It is not possible to collect the information less frequently.

7. Special circumstances

None.

8. Public Notice.

The notice of proposed information collection was published in volume 76, number 242, page 78344 of the *Federal Register* on December 16, 2011. Comments were due by February 14, 2012. The preamble to the final rule reflects the disposition of all public comments received in response to the December 16, 2011, proposed rule, including comments on reporting and recordkeeping changes. The final rule was published on July 24, 2013, volume 78, number 142,

9. Payment or gifts.

None.

10. Assurance of Confidentiality

Recipients of the assistance will collect and maintain records of information. Information on activities and expenditures of grant funds is public information and is generally available for disclosure. Recipients are responsible for ensuring confidentiality when public disclosure is not required.

11. Questions of a Sensitive Nature.

None.

12. Annual Reporting and Recordkeeping Burden

Reg. Section	Paperwork Requirement	Response Frequency (Average)	Record Keeping Hours	Reporting Hours	Number of Jurisdictions (Respondents)	Total Hours for Currently Codified Regulations	Total Hours for Recently Published Regulations	Total Hours for HOPE Program Regulations
§ 92.61	Program Description and Housing Strategy for Insular Areas	1		10	4	40		40
§ 92.66	Reallocation - Insular Areas	1		3	4	12		12
§ 92.101	Consortia Designation	1		5	36	180		180
§ 92.201	State Designation of Local Recipients	1		1.5	51	76.5		76.5
§ 92.200	Private-Public Partnership	1	2		594	1,188		1,188
§ 92.201	Distribution of Assistance	1	2		594	1,188		1,188
§ 92.202	Site and Neighborhood Standards	1	2		594	1,188		1,188
§ 92.203	Income Determination	1	2		6,667	13,334		
§ 92.203	Income Determination	1	.075		85,000		+63,750 (supersedes existing reg)	63,750
§ 92.205(e)	Terminated Projects	1		5	180		+900	900
§ 92.206	Eligible Costs - Refinancing	1		4	100	400		400
§ 92.210	Troubled HOME-Assisted Rental Projects	1		.50	25		+13	13
§ 92.206 § 92.216 § 92.217 § 92.218 § 92.250 § 92.252 § 92.254	Documentation required by HUD to be included in project file to determine project eligibility i.e., eligible uses and costs, cost limits, mixed-projects and value	1	5		6,667	33,335		33,335

Reg. Section	Paperwork Requirement	Response Frequency (Average)	Record Keeping Hours	Reporting Hours	Number of Jurisdictions (Respondents)	Total Hours for Currently Codified Regulations	Total Hours for Recently Published Regulations	Total Hours for HC Program Regulation
§ 92.251(a)	Rehabilitation Projects – New Construction	3		1	3,400		10,200	10.200
§ 92.251(b)	Rehabilitation Projects – Rehabilitation	2		1	5,100		10,200	10.200
§ 92.252	Qualification as affordable housing: Rental Housing:	5		5	50		+250	250
§ 92.252(j)	Fixed and Floating HOME Rental Units	1		1	45		+45	45
§ 92.251	Written Property Standards	3	1		6,667	6,667		6,667
§ 92.253	Tenant Protections (including lease requirement)	1	5		6,667	33,335		33.335
§ 92.254	Homeownership - Median Purchase Price	1	5		80	400	+3,000	3,000
§ 92.254	Homeownership - Alternative to Resale/recapture	1		5	100	500		
§ 92.254(a)(5)	Homeownership – Approval of Resale & Recapture	1		1.5	2,000		+3,000 (supersedes existing reg)	3,000
§ 92.254(a)(5)	Homeownership – Fair Return & Affordability	1			2	75	+150	150
§ 92.254(f)	Homeownership program policies	1		5	600	3,000		3,000
§ 92.300	CHDO Identification	1	2		594	1,188		1,118
§ 92.300	CHDO Project Assistance	1	2		594	1,188		1,188
§ 92.303	Tenant Participation Plan	1	10		4,171	41,710		41.710
§ 92.350	Equal Opportunity (including nondiscrimination, and minority and women business enterprise and minority outreach efforts)	1	5		6,667	33,335		33.335
§	Affirmative Marketing	1	10		6,667	66,670		66,670

Reg. Section	Paperwork Requirement	Response Frequency (Average)	Record Keeping Hours	Reporting Hours	Number of Jurisdictions (Respondents)	Total Hours for Currently Codified Regulations	Total Hours for Recently Published Regulations	Total Hours for HC Program Regulation
92.351								
§ 92.351	Affirmative Marketing (expands the outreach of AM)	1		5	1,290		+6,450	6,450
§ 92.353	Displacement, relocation and acquisition (including tenant assistance policy)	1	5		6,667	33,335		33,335
§ 92.354	Labor	1	2.5		6,667	16,667.50		16,667.50
§ 92.355	Lead-based paint	1	1		6,667	6,667		6,667
§ 92.357	Debarment and Suspension	1	1		6,667	6,667		6,667
§ 92.501	HOME Investment Partnership Agreement (HUD 40093)	1	1		598	598		598
§ 92.504	Participating Jurisdiction's Written Agreements	1	10		6,667	66,670		66,670
§ 91.616	Confirm first-time homebuyer status	1	0.1		427	43		43
§ 92.300	Designation of CHDOs	1		1.5	480	720		720
§ 92.501	HOME Investment Partnership Agreement (HUD 40093)	1		1	598	598		598
§ 92.502	Homeownership and Rental Set-Up and Completion (IDIS)			16	594	9,504		9,504
§ 92.502	Tenant-Based Rental Assistance Set-Up (IDIS)	1		5.5	225	1,237.50		1,237.50
§ 92.502	IDIS Performance Measurement Set-Up and Completion Screens			21	6,671	140,091		140,091
§ 92.502	Input first-time homebuyer status (IDIS)	1		0.2	427	85		85
§ 92.502	IDIS Access Request form (HUD 27055)	1		0.5	50	25		25
§ 92.502(a)	Required Reporting of Program Income	1		12	645		+7,740	7,740
§	Participating	1		1	645		+645	645

Reg. Section	Paperwork Requirement	Response Frequency (Average)	Record Keeping Hours	Reporting Hours	Number of Jurisdictions (Respondents)	Total Hours for Currently Codified Regulations	Total Hours for Recently Published Regulations	Total Hours for HC Program Regulation
92.504	jurisdiction inspection							
§ 92.504(a)	Required Policies and Procedures/Risk Analysis	1		8	645		+5,160	5,160
§ 92.504(c)	Written Agreement	1		1	8,500		+8,500	8,500
§ 92.504(d)(2)	Financial Oversight and HOME Rental projects	1		1	18,500		+18,500	18,500
§ 92.508	Recordkeeping-Subsidy Layering and Underwriting	1		4	13,302		+52,128	52,128
§ 92.508	Recordkeeping (Additional)	1		1	10,110		+10,110	10,110
§ 92.509	Annual Performance Reports (HUD 40107)	1		2.5	598	1,495		1,495
§ 92.509	Management Reports - FY Match Report (HUD 40107A)	1		0.75	594	445.5		445.5
§ 92.550 & § 91.525	HUD Monitoring of Program Documentation and Activities	1		0.25	645	645 *		645 *
§ 91.220	Describe the use of ADDI funds	1		1	427	427		427
§ 91.220	Describe the plan for outreach	1		1	427	427		427
§ 91.220	Describe plan to ensure suitability of families	1		1	427	427		427
§ 91.604	Describe prior commitment	1		1	37	37		37
	Direct Deposit Sign up form (SF 1199A)	1		0.16	10	1.6		1.6
Total Annual Respondents and Burden Hours			73.1	80.61	6,617	522,078	208,886	
Total Annual Respondents and Burden Hours (Adjusted)						508,224	208,886	717,110
Estimate of Respondent Cost: 717,110 hours x \$31/hour* = \$22,230,410.00 (This figure is based on GS-12 salary)								

The elements of data collection addressed in this document are either required or authorized by the statute authorizing HOME or related authorities.

13. Estimate of Total Costs to Respondents

There are no additional costs to the respondents (other than the cost shown in item 1 above).

14. Estimate of Annualized Cost to Federal Government

These changes will not result in increased costs to the Federal Government.

15. Explanation of Program Changes / Adjustments

This is a currently approved collection. The estimated burden hours reflect the previously approved collection, plus the additional hours that will be necessary to comply with the newly implemented regulatory changes. The ICR is really a reinstatement with change

16. Publication of Results

Not later than 120 days after the end of each fiscal year, the Department is required at Section 284(b) of the Act to report to Congress on the overall progress of program participants in meeting statutory and regulatory provisions of the HOME Program. The report will include the reporting and recordkeeping changes to be made by the final rule.

17. Display of the Expiration date for OMB Approval of the Information Collection

The Office of Affordable Housing Programs is not seeking to not display the expiration date for OMB approval of the information collection.

18. Explanation of Each Exception to the Certification Statement

No exceptions are made to the certification statement identified in item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

B. This collection does not employ statistical methods.