

**WHATCOM COUNTY COUNCIL AGENDA BILL**

NO.

2017-142

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator:	JT	3/30/17	<b>RECEIVED</b>  APR 25 2017  WHATCOM COUNTY COUNCIL	5/2/17	Finance/Council
Division Head:	AD	4/4/17			
Dept. Head:	RAD	4/12/17			
Prosecutor:	ZL	4-17-17			
Purchasing/Budget:	BB	4/12/17			
Executive:	TAS	4/24/17			

**TITLE OF DOCUMENT:**

**Resolution supporting cooperation in Regional Consortium required for HOME Investment Partnerships Program federal funding for affordable housing.**

**ATTACHMENTS:**

**Memo to Executive & Council**

**Resolution**

**Skagit County letter of support**

**HUD program consortia information**

SEPA review required? ( ) Yes ( X ) NO  
SEPA review completed? ( ) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes ( X ) NO  
Requested Date:

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Resolution authorizing County Executive to sign Interlocal Cooperative Agreement with other County and Municipal jurisdictions in Skagit, Whatcom, and Island Counties agreeing to automatically renew participation as a member of a regional consortium that will qualify the region for additional funding to address homelessness and the shortage of homes affordable to lower-wage workers and others.

**COMMITTEE ACTION:****COUNCIL ACTION:****Related County Contract #:****Related File Numbers:****Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).



RECEIVED

APR 19 2017

**MEMORANDUM**

**TO:** Jack Louws, County Executive  
**FROM:** *RAD*  
Regina A. Delahunt, Director  
**RE:** Regional Consortium to qualify for annual affordable housing grant  
**DATE:** April 11, 2017

JACK LOUWS  
COUNTY EXECUTIVE

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Whatcom County's Plan to End Homelessness has shown how multi-agency cooperation leads to better outcomes for people facing homelessness. Whatcom County has been presented with an opportunity to renew our participation in a three-county consortium that will bring more non-local matching grant revenue to Whatcom County for addressing homelessness and the shortage of affordable housing.

The U.S. Department of Housing and Urban Development (HUD) HOME program provides formula grants to participating jurisdictions to expand the supply of affordable housing, particularly rental housing for low and very low income households. Working alone, Whatcom County is too small to qualify for annual federal grants from the HUD HOME Investment Partnerships Program but working together with Skagit and Island Counties, we qualify for annual federal matching grants from the HOME Program.

The Skagit County Board of Commissioners requests that our County Council adopt the attached Resolution, authorizing you to sign an Interlocal Cooperation Agreement agreeing to the continuation of the regional HOME Consortium. Skagit County has offered to continue to serve as the Lead Agency and as the HUD grantee.

Each County will use the additional revenue from HUD in their existing county systems for ending homelessness and addressing the shortage of homes that lower-wage workers, fixed-income seniors, disabled veterans, and others can afford to lease or own. As a member of the HOME Consortium, Whatcom County obligations are limited; essentially, to provide input, stay supportive and to consider accepting a pass-through grant, estimated to be \$170,000 per year, which Whatcom County can use to support our existing programs for tenant-based rental assistance that prevents and ends homelessness for hundreds of families each year.

Encl.

PROPOSED BY: Health Department

INTRODUCED: \_\_\_\_\_

**RESOLUTION NO. \_\_\_\_\_**

**Authorizing Interlocal Cooperation Agreement with other municipalities in Skagit County, Whatcom County and Island County, agreeing to participate as a Member of a regional Consortium that will qualify the area for additional funding to address homelessness and the shortage of homes affordable to lower-wage workers and others**

**WHEREAS**, the region has a shortage of homes that lower-wage workers and other low-income people can afford; and

**WHEREAS**, cooperation among local governments supports existing local efforts aimed at reducing homelessness and increasing the supply of homes lower-wage workers and others can afford to lease or own; and

**WHEREAS**, the federal government offers funding and technical assistance aimed at increasing the supply of decent, safe and affordable housing available to low-income and very low-income families, including offers from the HOME Investment Partnerships Program (HOME Program) created in the National Affordable Housing Act of 1990; and

**WHEREAS**, the HOME Program allows geographically contiguous areas to establish a HOME Consortium in order to obtain grant funds under the HOME Program guidelines for eligibility; and

**WHEREAS**, eligible Members of the three-county HOME Consortium have determined that cooperating to establish a Consortium will increase the level of matching funds available for use within the region and, thereby, assist in meeting the housing affordability needs of the region; and

**WHEREAS**, the Interlocal Cooperation Act in Chapter 39.34 of the Revised Code of Washington authorizes units of general local government to enter into Interlocal agreements to cooperate for public benefit purposes;

**NOW, THEREFORE, BE IT RESOLVED** that the Whatcom County Council authorizes Jack Louws, County Executive, as the authorized Chief Administrative Official and authorized representative to sign an Interlocal Cooperation Agreement that allows Whatcom County to participate as a Member of a Consortium for a renewed period ending in June 2021, with automatic renewal of the Agreement for successive qualification periods.

APPROVED THIS \_\_\_\_\_ day of April, 2017.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

\_\_\_\_\_  
Dana Brown-Davis, Clerk of the Council

\_\_\_\_\_  
Barry Buchanan, Council Chair

APPROVED AS TO FORM:

\_\_\_\_\_  
Civil Deputy Prosecutor

**INTERLOCAL COOPERATION AGREEMENT  
TO ESTABLISH A HOME CONSORTIUM AND RECEIVE FUNDS  
UNDER THE NATIONAL AFFORDABLE HOUSING ACT  
FOR THE PROGRAM YEARS 2018 THROUGH 2020**

This Interlocal Cooperation Agreement (hereinafter Agreement) is entered into by and between Skagit County (hereinafter Lead Agency), and Anacortes, Blaine, Burlington, Concrete, Coupeville, Everson, Ferndale, Hamilton, Island County, La Conner, Langley, Lynden, Lyman, Mount Vernon, Nooksack, Oak Harbor, Sumas, Whatcom County (hereinafter Members) (*Note that Agreement final version will include names of Members that adopt a Resolution agreeing to participate*) for the purpose of establishing a regional HOME Consortium to receive and administer federal funds under the HOME Investment Partnership Program. This Agreement will become effective upon adoption by the Members and approval by the U.S. Department of Housing and Urban Development (HUD).

**RECITALS**

WHEREAS, the three-county region has a shortage of homes that lower-wage workers and other low-income people can afford, using thirty percent of gross household income for housing costs; and

WHEREAS, cooperation among local governments supports existing local efforts aimed at reducing homelessness and increasing the supply of homes lower-wage workers and others can afford to lease or own; and

WHEREAS, the federal government offers funding and technical assistance aimed at increasing the supply of decent, safe and affordable housing available to low-income and very-low-income families, including the HOME Investment Partnerships Program (HOME Program) created in the National Affordable Housing Act of 1990 (NAHA), as implemented by HUD through regulations at Title 24, Code of Federal Regulations, Part 92 (HOME regulations); and

WHEREAS, HOME regulations allow a group of contiguous units of general local governments (UGLGs) to organize as Members that establish a HOME Consortium for the purposes of obtaining HOME grant funding from HUD that will assist in improving the supply of decent, safe and affordable homes for low-income people and will strengthen partnerships among all levels of government and the private sector; and

WHEREAS, the Members have determined that obtaining HOME grant funding will increase their ability to assist with efforts to end homelessness and for the provision of affordable homes for residents with incomes at or below sixty percent of the area median income; and

WHEREAS, the Members are not individually eligible to obtain an allocation of HOME grant funding from HUD; however, the Members can cooperate to establish a HOME Consortium that will be eligible to obtain an allocation of HOME grant funding from HUD; and

WHEREAS, the Members have determined that it will be mutually beneficial and in the public interest to enter into this Interlocal Cooperation Agreement to establish a HOME Consortium in order to become eligible for HOME grant funding; and

WHEREAS, the Interlocal Cooperation Act in Chapter 39.34 of the Revised Code of Washington permits local governments to enter into agreements to cooperate for beneficial purposes and these purposes can include regional cooperation to establish a HOME Consortium; and

WHEREAS, HOME regulations specify the topics and content that Members must include in an interlocal cooperation agreement that establishes a HOME Consortium, and the HOME regulations require that

the HOME Consortium Members select one Member to act as Lead Agency for all Members in communications with HUD and as the HOME grant recipient on behalf of the Consortium; and

WHEREAS, Skagit County has offered to serve as the Lead Agency on behalf of the Members that enter into an interlocal cooperation agreement for the purpose of implementing a regional HOME-funded program to enhance cooperation among local jurisdictions to increase the availability of resources available to local governments to address the housing-related problems of lower-income people and to implement local Plans to End Homelessness; and

WHEREAS, the Lead Agency has offered to administer such federal funds for itself and on behalf of the Members;

NOW THEREFORE, in consideration of the mutual covenants and promises contained in this Agreement, the Members mutually agree to the following terms and conditions.

## **1. DEFINITIONS**

For the purpose of this Agreement, the terms defined in this section have the meanings given to them:

- A. “Consolidated Plan” is a HUD required document that serves as a planning and budgeting document for the Consortium and as a HOME grant funding application. The Consortium will develop a Consolidated Plan by May 15, 2018.
- B. “Consortium” means the Members and Lead Agency acting together pursuant to this Agreement.
- C. “HOME Regulations” means the rules, regulations and guidelines promulgated pursuant to the NAHA, including but not limited to 24 CFR Parts 91 and 92, as amended.
- D. “Lead Agency” means Skagit County, designated by the Members as the unit of general local government to act in a representative capacity for all Members for the purpose of entering into a HOME grant agreement with HUD.
- E. “Member” means an unit of general local government that is a signatory to this Agreement and therefore becomes a Member of the Consortium.
- F. “Subrecipient” means a Member who carries out HOME-funded activities after entering into a separate written agreement with the Lead Agency.

## **2. PURPOSE**

The purpose of this Agreement is to establish a HOME Consortium that will be eligible for HOME grant funds to increase the Members’ ability to assist in the provision of housing affordable for low-income residents.

## **3. AGREEMENT**

- A. **Term:** The term of this Agreement shall be for the qualification period ending June 30, 2021 and includes federal fiscal years 2018, 2019 and 2020. This agreement will auto renew for successive

qualification periods as outlined in the renewal section below. The agreement will remain in effect until HOME funds from each federal fiscal year of the agreements specified qualification period and each successive qualification period for which the agreement is renewed, are expended on eligible activities.

- B. **Execution:** This Agreement shall be executed by the appropriate officers of each Member and the Lead Agency pursuant to authority granted them by their respective governing bodies, and a copy of the authorizing resolutions and executed Agreement shall be filed promptly at the offices of the Lead Agency.
- C. **Renewal:** This agreement shall automatically be renewed for the Consortium's participation in successive qualification periods of three federal fiscal years each. No later than the date specified by HUD's consortia designation notice or HOME Consortia web page, the Lead Entity shall notify each Consortium Member in writing of its right to decide not to participate in the Consortium for the next qualification period and the Lead Entity shall send a copy of each notification to the HUD Field Office.

If a Consortium Member decides not to participate in the Consortium for the next qualification period, the Consortium Member shall notify the Lead Entity, and the Lead Entity shall notify the HUD Field Office, before the beginning of the new qualification period. If a consortium member decides not to participate in the consortium the Lead Agency will notify the HUD Field Office prior to the beginning of the new qualification period.

The consortium will adopt any amendment to the agreement that is necessary to meet HUD requirements for consortia agreements in successive qualification periods.

The Lead Agency will submit to the HUD Field Office a statement of whether or not any amendments have been made to the agreement, a copy of each amendment, and, if the consortium's membership has changed, the state certification required under 24 C.F.R. 92.101(a)(2)(i).

The auto renewal provision will be void if the Lead Agency fails to notify a consortium member of its right not to participate for the next qualification period or the Lead Agency fails to submit a copy of each amendment to the agreement as required.

- D. **Consolidated Plan:** The Lead Agency is responsible for preparing and submitting the Consolidated Plan to HUD. The Members shall cooperate in the preparation of the Consolidated Plan by providing input during the preparation of the Consolidated Plan and by assisting the Lead Agency in holding any required public meetings during the preparation of the Consolidated Plan.
- E. **Program Administration:** Skagit County, as Lead Agency, agrees to have decision-making authority regarding the Consolidated Plan and implementation, as well as oversight and authority on issues affecting the Consortium activities. The Lead Agency will be entitled to up to ten percent of the HOME Consortium grant allocation, as well as up to ten percent of program income, for eligible planning and administrative costs. The Lead Agency will provide staff support for a HOME Consortium Advisory Committee that will assist with preparation of the Consolidated Plan, project selection criteria, and selection of recommended projects for HOME funding agreements.

- F. **Allocating HOME Program Funding:** The annual allocation of HOME program funds will be based on the recommendation from the HOME Consortium Advisory Committee and adopted in the Consolidated Plan and its annual Action Plan.
- G. **HOME Consortium Advisory Committee:** An Advisory Committee shall be created for the purpose of identifying the general activities and priorities to be undertaken by the Consortium with HOME grant funds. Each Member may appoint a representative to serve on the Advisory Committee. The Advisory Committee will also participate in the development of the Consolidated Plan, establish decision-making procedures for the Consortium, serve in an advisory capacity for the programs and projects funded with HOME expenditures, make recommendations to the Lead Agency's governing body, and provide advice for the successful implementation of the Consolidated Plan and the HOME Consortium's programs.
- H. **Matching Funds:** No Member will be required to accept HOME grant funds, and no matching funds will be required of a Member that does not enter into a separate written agreement for HOME-funded activities. Members shall be responsible for providing matching funds for any HOME pass-through grant funds allocated to and accepted for use by that Member under terms to be specified in a HOME Subrecipient agreement. No matching funds will be required from a Member that does not enter into a HOME Subrecipient agreement.

Matching funds shall be reported to the Lead Agency, in a format to be determined by the Lead Agency, by the end of each program year covered by this agreement.

- I. **Affirmatively Furthering Fair Housing:** The Lead Agency and the Members agree to affirmatively further fair housing with all HOME Consortium funds under this Agreement in compliance with 24 CFR 92.350. Each Member that enters into a HOME Subrecipient agreement will be responsible for compliance with HUD regulations and, if applicable, for their own preparation and submission to HUD of an Analysis of Impediments to Fair Housing Choice. The Members agree that funding activities will be prohibited if a Member does not affirmatively further fair housing within its jurisdiction or impedes actions intended to comply with the Consortium's fair housing certification. The Members acknowledge noncompliance by a Member may provide cause for funding sanctions or remedial actions by HUD.
- J. **Program Income:** Program Income as defined at 24 CFR 92.2 generated by a Member will be held by each Member in a separate account specific to the HOME Program. Program Income will be used first before any additional HOME funds are drawn or requested for reimbursement, and appropriate documentation of the receipt and use of program income will be provided to the Lead Agency in a format to be determined by the Lead Agency and as required for reporting to HUD.
- K. **Indemnification:** Each Member agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other Members of the Consortium harmless from such liability. It is further provided that no liability shall attach to Skagit County as Lead Agency by reason of entering into this agreement except as expressly provided herein. The Members of the Consortium agree to reasonably cooperate in the event

litigation is brought against one or more of the Members pursuant to this Agreement by any third party.

#### 4. LEAD AGENCY RESPONSIBILITIES

- A. **Responsibilities:** The Lead Agency will be the governmental entity required to execute all grant agreements for HOME funds received from HUD pursuant to the Consortium's request for HOME funds. The Lead Agency will thereby become and will be held by HUD to have full responsibility for the execution of the HOME Program in compliance with HOME rules, including the requirements of the Consolidated Plan. The Lead Agency will be responsible for leading the development of the Consortium's Consolidated Plan with an annual Action Plan component and for required administrative functions such as reporting on the activities of the Consortium and serving as the liaison between HUD and Consortium Members, for meeting the requirements of other applicable laws, and for the performance of the HOME-funded activities including the HOME-funded projects and activities to be conducted by the Subrecipients.
- B. **Pass-through Grant Funds:** The Lead Agency shall monitor the performance of any Member that receives pass-through HOME funds and will hold a Member jurisdiction accountable, under terms to be specified in HOME Subrecipient agreement, for compliance with the requirements set forth in HUD regulations.
- C. **Administrative Activities for the Consortium:** The Lead Agency agrees to provide administrative functions for the Consortium, and specific administrative tasks include, but are not limited to, coordinating the public participation process, developing necessary forms and implementation agreements with Members that receive pass-through HOME funds, drafting program descriptions, notices of funding availability and requests for proposals, confirming that a Subrecipient is not debarred from federal funds, providing technical assistance to project sponsors, confirming compliance of funded projects as specified in a HOME Subrecipient agreement, and preparing required reports.
- D. **Administrative Activities for Members:** The Lead Agency's administrative obligations to the Members shall be limited to the performance of the administrative and program tasks necessary to make HOME funds available to the Members under terms to be specified in HOME Subrecipient agreements and to provide reporting to HUD on the various projects funded with HOME funds under provisions to be specified in HOME Subrecipient agreements.
- E. **Reporting Requirements:** The Lead Agency will require Subrecipients with HOME-funded activities or projects to provide the Lead Agency with HOME Program activity reports including information about program income, if any, derived from the HOME -funded activities.
- F. **Communication:** The Lead Agency will be responsible for communicating periodically, at least once per quarter, to each Member and other interested parties, providing a Consortium status report, an update on prior communications, and requests for feedback and input on pertinent topics. Additional communication protocol will be established during the development of the Consolidated Plan.



## 5. MEMBERS' RESPONSIBILITIES

- A. **Resolution:** The Members shall adopt a resolution for their unit of local government that authorizes the automatic renewal of this agreement for successive qualification periods.
- B. **Action Plan/Consolidated Plan Submissions:** The Members shall provide input that will assist the Lead Agency with the preparation of a Consolidated Plan.
- C. **Reporting Requirements:** If a Member receives any HOME funds under terms to be specified in a HOME Subrecipient agreement, the Member shall prepare and submit to the Lead Agency for consolidation into a combined report the following reports, if applicable, for submission to HUD according to applicable deadlines: Analysis of Impediments to Fair Housing, Citizen Participation Plan, Minority Business Enterprise/Women's Business Enterprise reports, federal cash transaction reports, and annual HOME Consolidated Action Plan Evaluation Report(s)(CAPER) as well as preparing and submitting any other reporting requirements that are required by HUD.
- D. **Lead Agency and Member Cooperation:** The Lead Agency shall cooperate and work with each Member that receives any HOME pass-through funds under terms to be specified in a HOME Subrecipient agreement for activities to be conducted or performed within the Member's jurisdiction during the Federal Program Years this Agreement is in effect.
- E. **Disallowed Expenditures:** Each Member that receives pass-through HOME funds under terms to be specified in a HOME Subrecipient agreement shall assume full responsibility for repayment of HOME funds for all expenditures made by their jurisdictions that are disallowed by HUD.
- F. **Eligible Expenditures:** Each Member that receives pass-through HOME funds under terms to be specified in a HOME Subrecipient agreement shall assume overall responsibility for ensuring their projects related to the Consortium's HOME Program are carried out in compliance with the requirements set forth in HUD regulations.
- G. **Eligibility Review and Compliance Monitoring:** Each member that receives pass-through HOME funds under terms to be specified in a HOME Subrecipient agreement shall provide monitoring the compliance of projects funded with HOME funds to ensure that they comply with applicable Federal laws and regulations including property standards.

## 6. SPECIAL PROVISIONS

- A. **Amendments:** All amendments to this Agreement must be in writing and signed by all Members except that the Lead Agency shall have authority to amend to the Agreement on behalf of all Members to add new Members to the Consortium.
- B. **Severability:** Invalidation of any one or more of the provisions of this Agreement shall in no way affect any of the other provisions thereof, which shall remain in full force and effect.

C. **Financial Obligations of the Parties:** Each party's financial obligations under this Agreement are contingent upon appropriation, budgeting, and availability of specific funds to discharge those obligations. Nothing in this Agreement constitutes a debt, a direct or indirect multiple fiscal year obligation, a pledge of the credit of either party, or a payment guarantee by either party to the other party. No Member incurs any financial obligation unless it later signs a HOME Subrecipient agreement.

.....

IN WITNESS THEREOF, the undersigned Members have executed this Agreement;

A separate signature page will be added for each Member after each Member's legislative process adopts a Resolution authorizing automatic renewal and a signature on interlocal agreement.

Current members include: Island County, Coupeville, Langley, Oak Harbor, Whatcom County, Blaine, Everson, Ferndale, Lynden, Nooksack, Sumas, Skagit County, Anacortes, Burlington, Concrete, Hamilton, La Conner, Lyman, and Mount Vernon



# Skagit County Department of Public Health

**Jennifer Johnson, Director**  
**Howard Leibrand, M.D., Health Officer**

## **Memorandum from Skagit Island Whatcom HOME Consortium**

**Date:** April 11, 2017

**To:** Participating Members of the Skagit Island Whatcom HOME Consortium: Anacortes, Blaine, Burlington, Concrete, Coupeville, Everson, Ferndale, Hamilton, Island County, La Conner, Langley, Lyman, Lynden, Mount Vernon, Nooksack, Oak Harbor, Skagit County, Sumas, and Whatcom County

**From:** Kayla Schott-Bresler, Public Health Analyst, Skagit County Department of Public Health, which serves as the lead agency for Skagit Island Whatcom HOME Consortium

**Re:** Consortium Renewal for 2018-2020

The Skagit Island Whatcom HOME Consortium was established in 2015 to obtain HOME Funding from the United States Department of Housing and Urban Development (HUD). The Consortium currently includes Skagit, Island, and Whatcom Counties and 16 area cities/towns. The primary purpose of the Consortium's HOME funds is to develop affordable housing for households with incomes between 30 and 80 percent of Area Median Income (AMI) and ensure housing is financially accessible for households experiencing homelessness with incomes less than 50% AMI. HOME Program funding for the three year period of 2015-2017 will total approximately 1.8 million dollars. HUD has granted the Consortium \$1.2 million to date, and this funding has been used to advance the Consortium's objectives across the three counties. The funding provides rental assistance to one hundred households, downpayment assistance to at least four households, and supports the development of six affordable homes.

This memo serves as notification that we are currently undertaking the renewal process for the Consortium. We request a response as to whether you intend to continue to participate as a member of the Consortium. It is Skagit County's responsibility as lead agency to notify you that, as a participating member, you have the right to opt out of participation for 2018-2020. If you wish to continue participating in the Consortium you must submit a new signed copy of the attached Interlocal Agreement by May 15, 2017. This Interlocal Agreement must also be adopted via a resolution that contains the required renewal provisions outlined in the agreement. If you elect not to participate, please submit a letter stating your desire to opt out by May 15, 2017.

The formation of this consortium has allowed the region to access HOME funds to , helping homeless and low income individuals acquire housing across the region. Without the formation of the Consortium, these funds would not be available to the participating jurisdictions or low-income program beneficiaries.

The procedure for renewal is similar to the consortium creation process. On February 17, 2017, we sent a letter of intent to HUD stating we intended to continue to participate as a consortium for the purposes of the HOME program. This memo is the next step in the process. The final step prior to HUD recertifying the Consortium's status is to submit new Interlocal agreements with updated signatures. The County must have signed agreements no later than May 15, 2017. This will allow time to process and send to HUD for review.

We are also in the process of completing the 2017 Action Plan for the 2017- 2018 program year. This plan is a required component of the Consolidated Plan. The Action Plan describes how the Consortium will use the HOME grant to meet the local housing needs described throughout the Consolidated Plan. Unlike the Consolidated Plan itself, which is only updated every three to five years, the Action Plan must be submitted annually. Each Action Plan will describe how the Consortium plans to allocate and spend that years grant allocation. We expect the HOME Consortium's 2017-2018 grant allocation to total approximately \$660,000.

As part of submitting the Action Plan, the Consortium will hold a public hearing. As Consortium members, you are specifically invited to attend the Public Hearing on the 2017-18 Action Plan. Please invite other stakeholders who may be interested in providing comments regarding this plan. The Hearing will be held Monday, April 3, 2017, at 11:30 a.m. in the Commissioners' Hearing Room at the Skagit County Administration Building, 1800 Continental Place, Mount Vernon, Washington.

Please contact me at [Kaylasb@co.skagit.wa.us](mailto:Kaylasb@co.skagit.wa.us) or (360) 416-1520 with any questions. Thank you for your support of, and involvement in, this innovative regional approach to encourage and create affordable housing.



OFFICE OF COMMUNITY PLANNING  
AND DEVELOPMENT

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-7000

MAR 07 2014

MEMORANDUM FOR: All CPD Field Office Directors

FROM: Yolanda Chávez, Deputy Assistant Secretary for  
Grant Programs, DG

SUBJECT: Summary of significant changes contained in HUD Notice  
CPD 13-002 Procedures for Designation of Consortia as a  
Participating Jurisdiction for the HOME program

On April 9, 2013, the Office of Affordable Housing Programs (OAHP) issued HUD Notice CPD 13-002, *Procedures for Designation of Consortia as a Participating Jurisdiction for the HOME program*, superseding HUD Notice CPD 08-01. In anticipation of receiving qualification documents from proposed new consortia and re-qualification documents from existing renewing consortia for fiscal year (FY) 2015 HOME participation, the purpose of this memorandum is to highlight the most significant changes between the two notices.

**1. Adding new members to a consortium with automatic renewal**

The previous Notice (HUD Notice CPD 08-01) instructed that an existing consortium with automatic renewal must submit a new agreement signed by all members if it was adding new members for the first year of a new qualification period. The new Notice (HUD Notice CPD 13-002) changes this requirement to allow an existing HOME consortium with automatic renewal provisions to add new members to the consortium during the last fiscal year of qualification period (to be effective during the first year of the new qualification period) through an amendment to the current consortium agreement. This change will ease the administrative burden for consortia with automatic renewal that wish to add new members. Consequently, a consortium may add new members at any time during its qualification period through an amendment to the current consortium agreement.

**2. Amending the consortium agreement to add automatic renewal provisions**

The new Notice (HUD Notice CPD 13-002) also provides guidance to consortia regarding amending the consortium agreement to add automatic renewal provisions. The previous Notice (HUD Notice CPD 08-01) did not contemplate this type of amendment. The consortium agreement can be amended at any time to add automatic renewal provisions. If the consortium agreement is amended in the last year of a consortium's qualification period, the automatic renewal provisions will be used to re-qualify the consortium for the next three-year qualification period provided the amendment is executed prior to the September 30 statutory deadline for participation and the consortium follows the procedures for re-qualifying with automatic renewal provisions.

### **3. Requirement for a State Certification**

HUD Notice CPD 13-002 also clarifies that a State certification is required for (1) all new consortia, (2) all renewing consortia without automatic renewal, and (3) all renewing consortia with a change (addition or subtraction) in membership. A State certification is not required for all renewing consortia with automatic renewal and no change in membership.

### **4. Federal fiscal year requirement**

HUD Notice CPD 13-002 further clarifies the requirement that the consortium agreement must clearly state the three Federal fiscal years for which it is applicable. HUD will reject any consortium agreement that does not state specifically and accurately the three Federal fiscal years of the consortium's qualification period. This is in addition to any language contained in the consortium agreement regarding the participating jurisdiction's program year start and end dates.

### **5. Automatic renewal language and checklist**

As a result of the significant number of consortia agreements and amendments that contained inadequate automatic renewal provisions, HUD Notice CPD 13-002 contains sample automatic renewal language (Attachment 2) that HOME consortia can adopt or modify that will satisfy both OAHP and the Office of General Counsel. The Notice also incorporates a checklist (Attachment 1) for automatic renewal provisions to help HOME consortia developing automatic renewal provisions to ensure their draft provisions contain all of the required elements.

If you have any questions regarding HUD Notice CPD 13-002 or HOME consortia please contact Dora Rivera in OAHP at [dora.i.rivera@hud.gov](mailto:dora.i.rivera@hud.gov) or 202-402-2410.



OFFICE OF COMMUNITY PLANNING  
AND DEVELOPMENT

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-7000

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**Special Attention of:**

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

**Notice:** CPD-13-002

Issued: April 9, 2013

Expires: **This NOTICE is effective until it is  
amended, superseded, or rescinded**

Supersedes CPD 08-01

Cross Reference: 24 CFR Parts 91 & 92

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**Subject: Notice of Procedures for Designation of Consortia as a Participating  
Jurisdiction for the HOME program**

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## **I. PURPOSE**

This Notice provides guidance on the procedures for approving two or more contiguous local governments to participate as a consortium in the HOME Investment Partnerships (HOME) Program. The Notice supersedes HUD Notice CPD 08-01; it is applicable to Units of General Local Government (UGLGs) that wish to form or have formed a consortium to participate in the HOME program and existing consortia.

### **A. Background**

The HOME program is authorized by the HOME Investment Partnerships Act (referred to as “the Act”), Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701), as amended.

A HOME consortium consists of contiguous UGLGs that separately may not qualify to receive HOME funds. These UGLGs may join together to form a consortium for the purpose of receiving a HOME allocation and administering the HOME program as a single Participating Jurisdiction (PJ). The Act provides that a consortium is eligible to be a HOME PJ if the Secretary determines that the consortium (1) has sufficient authority and administrative capacity to carry out the purposes of the Act on behalf of its member UGLGs and (2) will, according to a written certification by the state, direct its activities to the alleviation of housing problems within the state.

HUD Field Offices approve new consortia and the renewal and amendment of consortium agreements during the current fiscal year by August 1; this ensures that the consortia will be eligible to receive HOME funds in the next federal fiscal year.

A list of consortia that are participating in the HOME program for the current fiscal year is available on the web at:

<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/consortia/index.cfm>.

## **II. ELIGIBILITY REQUIREMENTS FOR FORMING A CONSORTIUM**

### **A. Consortium Members**

The UGLGs of a proposed consortium must be geographically contiguous according to the Census Bureau or other authoritative maps. A river or other body of water may separate the UGLGs if there is a road or a bridge that makes them contiguous. HUD makes the final determination on the contiguity of members of a proposed consortium.

Special considerations for urban counties, non-urban counties, and metropolitan cities:

(1) An *urban county* is defined by Section 102(a)(6) of the Housing and Community Development Act of 1974, as amended. As a practical matter, an urban county is a county that is receiving a Community Development Block Grant (CDBG) entitlement grant and includes UGLGs that sign cooperation agreements with the county. When UGLGs agree to be part of an urban county for the CDBG program, they also agree to participate in the HOME program if the urban county is a PJ or joins a consortium. Accordingly, when an urban county joins a HOME consortium, a UGLG that is a member of the urban county is included in the consortium through

its participation in the urban county. The authorized official of the urban county signs the consortium agreement on behalf of the entire urban county. While an UGLG participating in the urban county may only receive a formula allocation under the HOME program as part of the urban county, this does not preclude the urban county or a UGLG participating with the urban county from applying for HOME funds through the state PJ.

In many urban counties, there are UGLGs that have chosen not to participate in the CDBG urban county. These UGLGs can choose to join the HOME consortium, but they must sign the HOME consortium agreement to do so. By signing the consortium agreement, the UGLG within the urban county, not participating in the CDBG urban county, becomes a member of the HOME consortium.

(2) A non-urban county. This is a county that is not receiving a CDBG entitlement grant as an urban county.

A non-urban county may join a HOME consortium. However, the county cannot on its own include the whole county in the consortium, only the unincorporated area of the county. An incorporated unit of local government within the non-urban county that wishes to participate as a member of the consortium must sign the HOME consortium agreement. By signing the consortium agreement, the unit of general local government within the non-urban county becomes a member of the consortium.

(3) A metropolitan city is defined by the CDBG statute. As a practical matter, a metropolitan city is a city that is receiving a CDBG entitlement grant.

A metropolitan city may be a HOME consortium member. However, if a metropolitan city has a Joint Grant Agreement with an urban county for the CDBG program and wishes to receive HOME funding with the urban county, it must form a HOME consortium with the urban county. The HOME consortium and CDBG entitlement under a joint grant agreement must have the same program year in order to receive funding. Therefore, a metropolitan city that has a Joint Grant Agreement with an urban county does not participate in the HOME consortium through the urban county.

**Note:** The CDBG program regulations allow a metropolitan city located, in whole or in part, within an urban county to be included as part of that county for the purposes of planning and implementing a joint community development and housing program (24 CFR 570.308). This request is approved by HUD through the submission of a "Joint Grant Agreement."

## **B. Administrative Capacity**

In order to be eligible to become a HOME PJ, a consortium's representative member or "lead entity" must have the sufficient legal authority and administrative capacity to carry out the purposes of the HOME program on behalf of its members.

If the consortium designates an urban county or a metropolitan city as the lead entity, the consortium will be considered to have sufficient administrative capacity to carry out the purposes of the HOME program, unless the urban county or metropolitan city has significant performance problems with its CDBG or HOME program. Significant performance problems include, but are not limited to one or more deobligations for failure to meet HOME deadline requirements, open CPD monitoring findings,

open HUD OIG audit findings, or evidence of poor performance or reporting based on HOME reports.

If the consortium designates as a lead entity an existing public agency that has relevant experience (e.g., successful experience in administering CDBG or the HOME program as a state recipient), the consortium may also be considered to have sufficient administrative capacity to carry out the HOME program. However, an UGLG that does not receive a CDBG grant or a newly created public agency that is established to administer the HOME program for a consortium would not be considered to have sufficient administrative capacity unless it includes as its administrator(s) a person or persons with relevant experience in successfully administering the HOME and/or CDBG programs.

If the Field Office is satisfied that the consortium meets the eligibility requirements for participation in the HOME program and that it has the necessary legal authority and administrative capacity to carry out the HOME program, it will approve the consortium request and notify the Office of Affordable Housing Programs (OAHP) at HUD Headquarters as provided in Section VI. HUD, at its discretion, may review the performance of an existing consortium that wishes to re-qualify to determine whether it continues to have sufficient authority and administrative capacity to successfully administer the program. If HUD determines that the consortium does not have sufficient authority and administrative capacity to successfully administer the program, it may revoke the consortium's designation as a PJ.

### **C. Advantages and Drawbacks to Forming a Consortium**

The formation of a consortium can be a positive force for affordable housing production. It permits an area, which otherwise might not be assured HOME funding, to plan and carry out an affordable housing program. Formation of a consortium also enables neighboring units of local government to develop collaborative approaches that address regional housing needs in a coordinated way. Assessing housing needs and developing strategies regionally can assist jurisdictions in meeting their obligation to affirmatively further fair housing by expanding housing choice across jurisdictional boundaries for all low-income households in the housing market area.

HOME funds are distributed (after set-asides) by formula with 40 percent of the funds going to states and 60 percent of the funds going to UGLGs. The amount that each state receives is based on two calculations: 80 percent of a state's funds are based on the demographic profile of the non-entitled areas of the state, while 20 percent of its funds are based on the demographic profile of the whole state. Except for states that receive the minimum allocation of \$3,000,000, the amount available to a state is reduced when a consortium is formed because the demography of the consortium is included only in the calculation for 20 percent of the funds, and not in the calculation for 80 percent of the funds. When a Field Office discusses the merits of forming a consortium, the prospective members need to understand that the formation of a consortium could result in a loss of HOME funds to the state as a whole.

The amount of funds available for UGLGs is divided among a greater number of jurisdictions each year, primarily due to the addition of new consortia. Therefore, the amount allocated to a new consortium will depend, in part, on how many jurisdictions receive a share of the total funds available. It will also depend on the amount of HOME funds that Congress appropriates each Fiscal Year and the demographic profile of each jurisdiction.

In the event that a consortium fails to receive a HOME allocation in any one year and none of the members qualify as PJs based on separate formula allocations, HUD will reallocate the funds to the state consistent with 24 CFR 92.451(c)(2)(i).

Since a consortium administers the HOME program as a single PJ, it is important that the member UGLGs are able to establish a working relationship to meet the affordable housing needs of every member. Each consortium must designate a representative member, also referred to as the lead entity, to assume the overall responsibility for the consortium's compliance with the HOME program requirements. The consortium members should trust the lead entity's ability to assume this responsibility, and all members must be committed to cooperatively achieve the objectives of the Consolidated Plan. Since HUD enters into the HOME grant agreement with the lead entity, the lead entity is responsible for the consortium as a whole and must be able to provide adequate administrative oversight of its member UGLGs, including ongoing responsibilities during the period of affordability for completed HOME projects regardless of location within the consortium boundaries.

The HOME consortia web page:

(<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/consortia/>) contains further information and guidance on regional planning, good practices, performance measurement, and estimating funding.

### **III. THE PROCESS FOR DESIGNATION OF A CONSORTIUM AS A HOME PJ**

To be considered for approval as a new HOME consortium, or for a consortium with no automatic renewal clause in its written agreement seeking to renew its qualification period, or for a consortium that is required to amend its consortium agreement to add members or modify provisions, the following qualification documents must be provided to the appropriate Field Office **prior to June 30:**

**A. State Certification** *(Required for all new consortia, renewing consortia with no automatic renewal provision, and renewing consortia with a change in membership).*

This is a written certification by the state declaring that the consortium will direct its activities to the alleviation of housing problems within the state. The state certification may be signed by the Governor or his/her authorized designee who signs as "Authorized Official."

**B. Consortium Agreement** *(Required for all new consortia and renewing consortia with no automatic renewal provision).*

This is a legally binding consortium cooperation agreement executed by all members of the consortium, which contains the following provisions and attachments:

- (1) *Program Activity*: The members of the consortium agree to cooperate to undertake or to assist in undertaking housing assistance activities for the HOME program.
- (2) *Representative Appointment*: One consortium member is authorized to act in a representative capacity as the lead entity for all members of the consortium for the purposes of administering the HOME program.
- (3) *Representative Responsibilities*: 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 the Consolidated Plan.

**NOTE:** The agreement **must not** contain a provision for veto, or any other clause, that would allow a consortium member to obstruct the implementation of the consortium's approved Consolidated Plan.

(4) *Fair Housing*: In a statement in the agreement, each consortium member agrees to affirmatively further fair housing.

(5) *Term*: The consortium's qualification period is specified (the consecutive three year qualification period during which the consortium is to qualify to receive HOME funds), and members are prohibited from withdrawing from the consortium during this period.

The agreement must specify the three federal fiscal years for which the consortium is receiving HOME funding. For example, if the agreement was executed in 2011 for FY 2012 funding, the correct qualification period is from FY 2012 to FY 2014.

**NOTE:** The qualification period for all consortia is based on the federal fiscal year. Individual consortia may establish program year start dates that do not coincide with the federal fiscal year. However, the agreement must state the **three federal fiscal years** for which it is applicable. HUD will reject any consortium agreement that does not state specifically and accurately the three federal fiscal years of the consortium's qualification period.

If one or more urban counties are members of a new consortium, the agreement may specify a lesser number of fiscal years in order to coincide with the number of years remaining in an urban county's qualification period for the CDBG program so that the CDBG urban county qualification period and the HOME consortium qualification period terminate at the same time. If an urban county consortium member fails to re-qualify as an urban county for the CDBG program during the qualification period included in the consortium agreement, the consortium agreement terminates with the last fiscal year for which the urban county qualified for the CDBG program. A new consortium agreement must be executed for the succeeding qualification period.

Even though a consortium's qualification period may end, the consortium agreement must, at a minimum, remain in effect until the HOME funds received during each of the federal fiscal years of the qualification period are expended on eligible activities or returned to HUD. The new agreement is governed by the requirements of this Notice or its successor.

If the consortium fails to meet the minimum threshold to receive a HOME allocation for the first federal fiscal year of its qualification period, it must request to be considered to receive a HOME allocation in each of the subsequent two years.

(6) *Automatic Renewal*: At the option of the consortium, the agreement may provide that it will automatically be renewed for participation in successive three-year qualification periods. HUD recommends that a newly created consortium consider not including automatic renewal provisions in its initial three-year consortium agreement as a precautionary measure, in case the consortium decides not to continue participation as a consortium for the next qualification period.

Automatic renewal provisions must be clearly stated. **Attachment 2** contains an example of acceptable automatic renewal provisions. Agreements containing both automatic renewal and

not automatic renewal (i.e., an agreement with a specific end date) will be rejected.

Where automatic renewal provisions are used, the agreement must state that, the lead entity and all members agree that the consortium agreement will be renewed automatically for participation in successive three-year qualification periods.

By the date specified in HUD's consortia designation notices or listed on HOME's Consortia webpage:

<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/consortia/>, the lead entity must notify each consortium member in writing of its right to not participate for the successive three-year qualification period. A copy of the notification must be sent to the Field Office. Automatic renewal provisions must also include a stipulation requiring the consortium to adopt any amendments to the agreement that incorporate future changes necessary to meet the requirements for consortia agreements in subsequent qualification periods. Failure of the lead entity to notify consortium members of their right not to participate in a subsequent three-year qualification period or to submit amendments to HUD in the absence of a stipulation requiring the consortium to adopt any amendments to the agreement that incorporate future changes necessary to meet the requirements for consortia agreements in subsequent qualification periods will void the automatic renewal provision in the agreement.

If a new member is added for the first year of a new qualification period, an amendment to add the new member (s) must be submitted by consortia with automatic renewal agreements. If the agreement provides that the lead entity has the authority to amend the HOME consortium agreement on behalf of the consortium's members, then only the lead entity's authorized official is required to sign the amendment.

For consortia agreements with automatic renewal provisions, at re-qualification if there is no change to the consortium agreement, the Field Office must notify OAHF indicating that there has been no change. However, if the consortium submits a new agreement, regardless of the automatic renewal provisions contained in a previously approved agreement, the Field Office must submit the new agreement to OAHF since this new agreement supersedes any previous agreement. In addition, if there is any change in consortium membership for the first year of re-qualification, the lead entity must submit the state certification to the HUD Field Office. If a member decides not to participate in the new qualification period, the consortium must notify the field office, which then must notify OAHF that the member is no longer a part of the consortium.

If the consortium **does not** establish automatic renewal in the consortium agreement, then the consortium must negotiate a new consortium agreement and have it signed by all members during the last year of its current qualification period. Failure to submit a new HOME consortium agreement by the established deadline will result in the consortium's disqualification to receive a HOME formula allocation during the upcoming fiscal year.

(7) *Program Year*: As required by the Consolidated Plan final rule at 24 CFR § 91.402(a), all UGLG members of a HOME consortium must be on the same program year for the CDBG, HOME, ESG and HOPWA programs. The consortium agreement must state the beginning and end dates of the consortium's program year. A waiver of this requirement is necessary for a newly formed consortium whose members are not all on the same program year that would like a transition period to get its members on the same program year schedule.

(8) Authority to Amend Agreement: The agreement must specify that the lead entity is authorized to amend the agreement to add new members or to incorporate automatic renewal provisions or for other reasons approved by HUD on behalf of the entire consortium, unless otherwise specified in its agreement. If this provision is not included and the consortium wishes to amend the consortium agreement to add new members or incorporate automatic renewal provisions or make other amendments approved by HUD, all consortium members must sign the amendment to the agreement.

(9) Signatures: The agreement must be signed by the chief executive officer or authorized official of each member UGLG. The authorized urban county official signs the agreement on behalf of its participating UGLGs. All members of the HOME consortium must sign the agreement, including any UGLGs within a non-urban county that wish to participate as members of the consortium. UGLGs participating in a consortium as members of an urban county do not sign the consortium agreement. A metropolitan city with a joint grant agreement with an urban county must sign the consortium agreement as a separate member of the consortium.

(10) Attachment - Resolutions: The authorizing resolutions by the governing body of each member UGLG, or other acceptable evidence, must be submitted indicating that the Chief Executive Officer or other designated official has the authority to sign the agreement.

In addition to the state certification and consortium agreement, the consortium must submit a legal opinion in which the lead entity's counsel cites applicable law to conclude that the terms and provisions of the agreement are fully authorized under state and local law. The legal opinion shall also state that the agreement provides full legal authority for the consortium to undertake or assist in undertaking housing assistance activities for the HOME program.

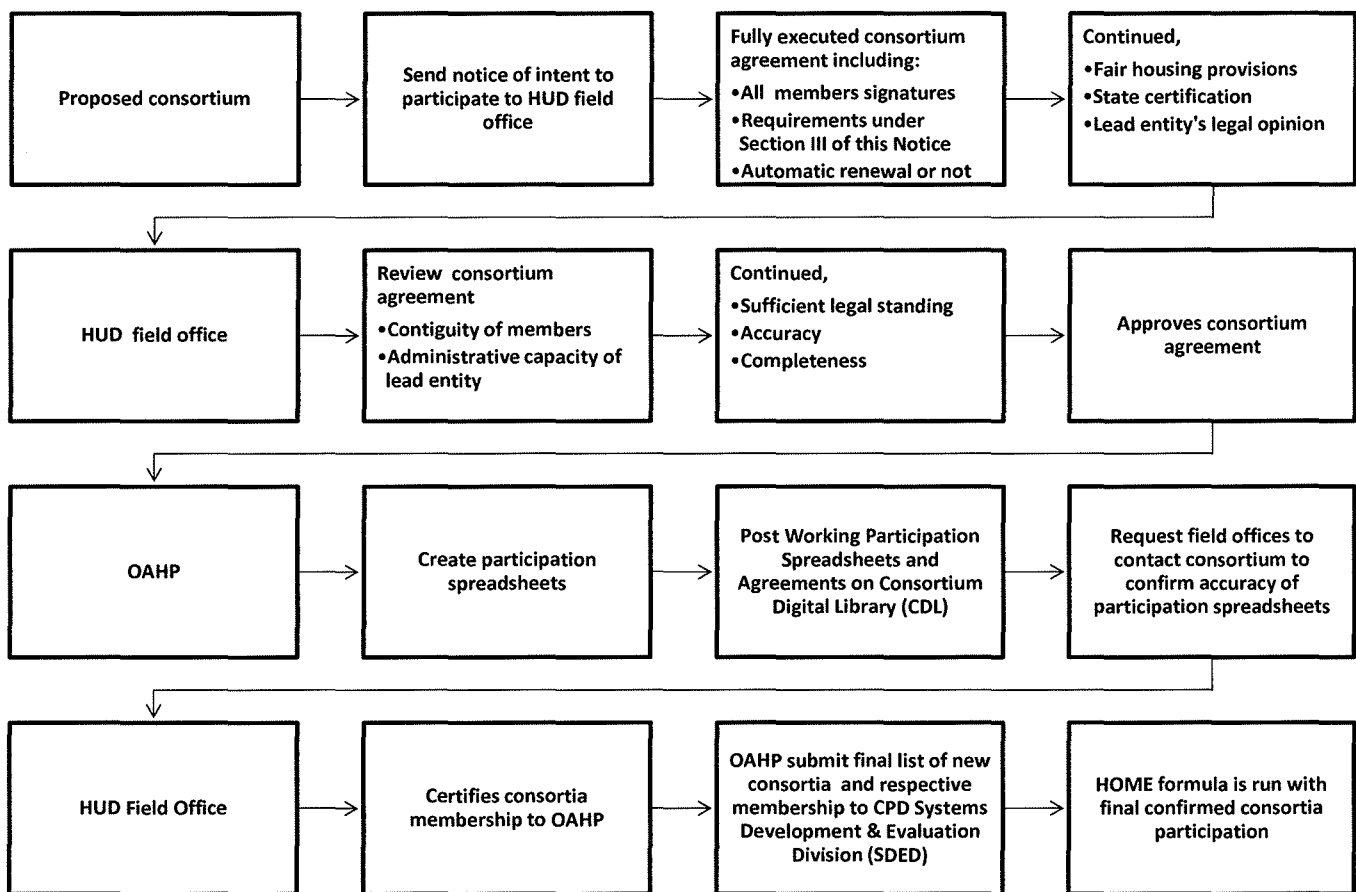
### **C. HUD Review of Qualification Documents**

The HUD Field Office reviews documents submitted by a consortium to determine whether it is comprised of geographically contiguous UGLGs, whether it has sufficient administrative capacity to carry out the purposes of the HOME program on behalf of its member jurisdictions, and to ensure that there is a written certification from the state. The Field Office will also ensure that all UGLG members of the consortium are on the same program year for HOME, CDBG, ESG, and HOPWA prior to approval unless a waiver of this requirement has been approved.

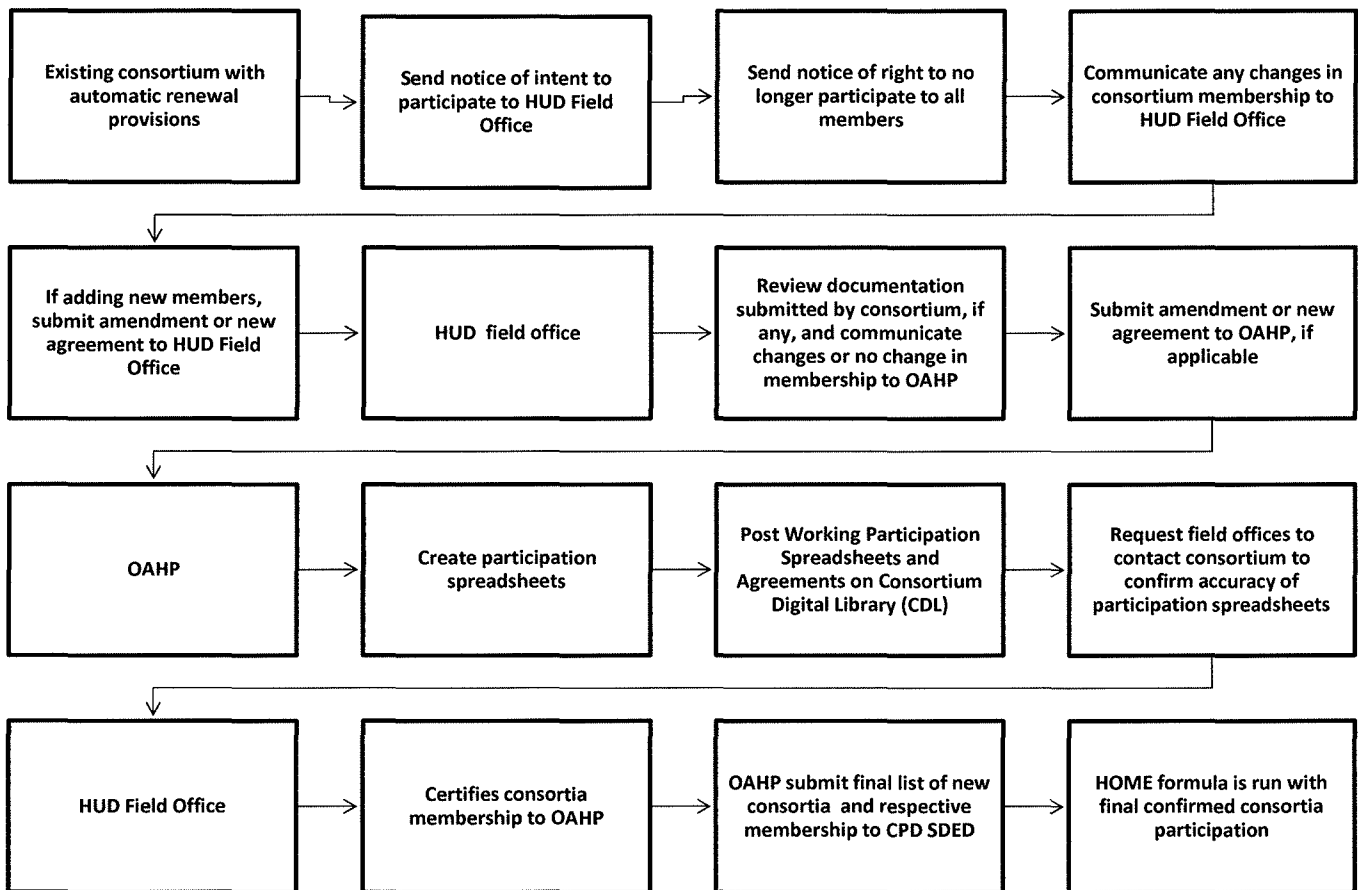
In addition, Field Office counsel should review each new consortium's submissions to determine whether the consortium has sufficient legal authority to carry out the HOME program.

## **1. PROCESS CHART FOR NEW CONSORTIA**

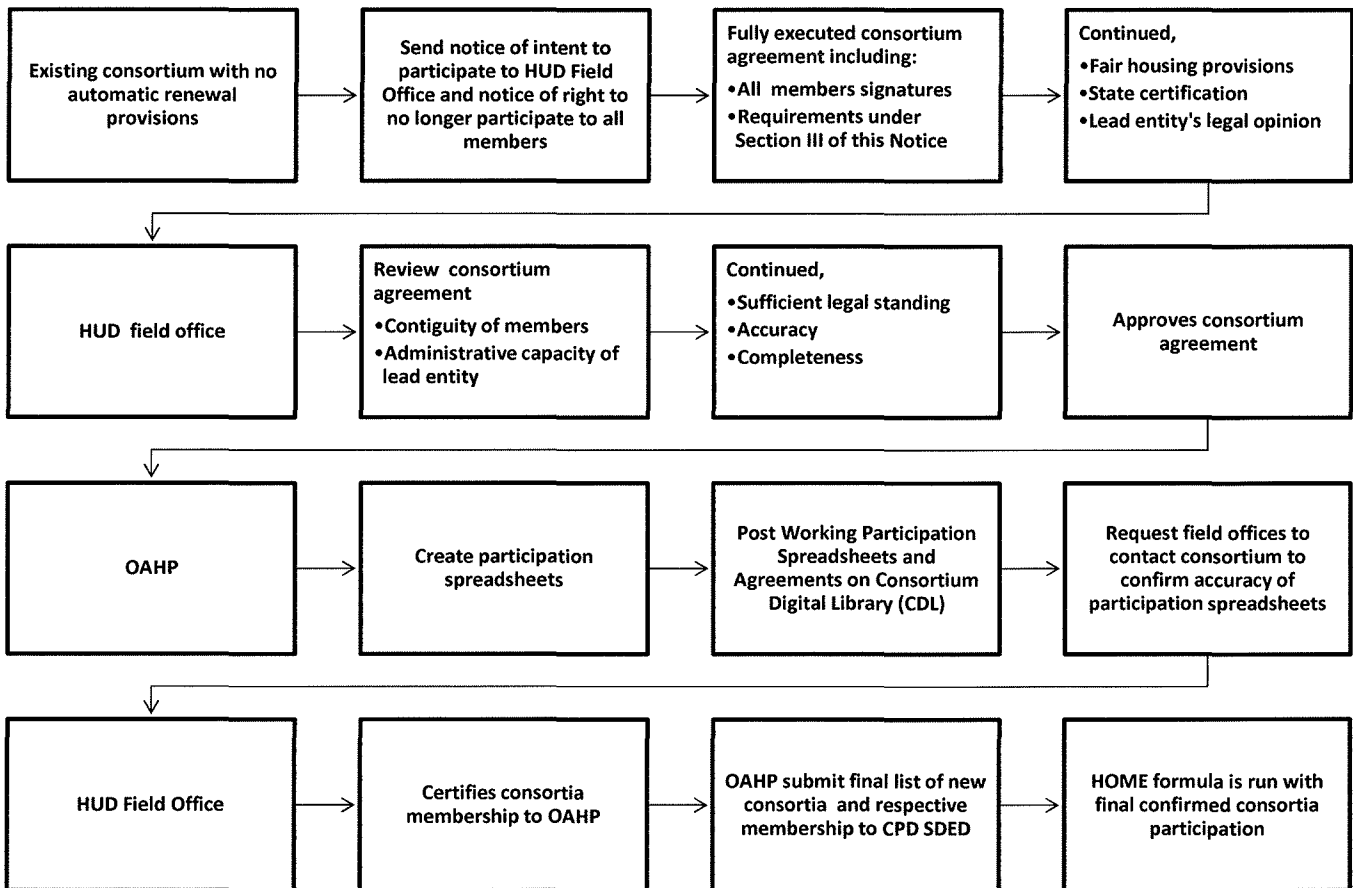




## **2. PROCESS CHART FOR EXISTING CONSORTIA WITH AUTOMATIC RENEWAL PROVISIONS**



### **3. PROCESS CHART FOR EXISTING CONSORTIA WITH NO AUTOMATIC RENEWAL PROVISIONS**



#### **D. System to track the HOME Consortia Participation Decisions**

As described in this Notice, OAHP in HUD Headquarters maintains the official files for consortia agreements, creates consortia participation directories, and an online digital library for the use of HUD Headquarters and Field Office staff, and corresponds directly with Field Office staff regarding consortia status. Accordingly, it is important for CPD Field Office staff to work closely with OAHP to ensure the most current consortia documents are submitted, reviewed, and posted to the Consortia Digital Library, the web-based library used to track consortia member participation.

#### **E. Digital Storage of Consortia Agreements**

When a consortium agreement is received by OAHP and determined to be complete, it is scanned and saved as a PDF file and placed in a central directory on the HUD Headquarters local area network (LAN). If the agreement is later amended, the amendment is also scanned and saved as a PDF file on HUD's LAN.

All pertinent information for each HOME consortium is maintained on the HOME Consortia Digital Library (CDL). The HOME CDL is located on the HUD intranet site and is only accessible to HUD staff.

The CDL is organized by Field Office. Each CPD Field Office has its own CDL page which lists its consortia, if any, by the name of the lead entity. Each CDL page contains the "final participation" spreadsheet for each consortium, which is the consortium's current list of members on which the most recent HOME formula allocation was based. It also contains the "working participation" spreadsheet, which identifies any changes in consortium participation from its final participation spreadsheet. The CDL also houses the current consortium agreement and any amendments.

### **IV. MAKING CHANGES TO A CONSORTIUM**

#### **A. Amending the Consortium Agreement**

A consortium agreement can be amended for the following purposes:

1. **To add new members for the remaining fiscal years of the qualification period.** The agreement must be amended in the fiscal year before the year in which the new member is to be added. The consortium must provide the Field Office with 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 member. If the consortium agreement does not authorize the lead entity to sign on behalf of all members, all members must sign the amendment, including the lead entity and the new member. A change in the make-up of any consortium must be communicated to OAHP.
2. **To add automatic renewal provisions.** The agreement may be amended at any time during the consortium's qualification period to add automatic renewal provisions. If the agreement is amended in the last year of a consortium's qualification period, the automatic renewal provisions will be used to re-qualify the consortium for the next three-year qualification period provided the amendment is executed prior to the September 30 statutory deadline for participation.
3. **For other reasons upon written approval from the appropriate HUD Field Office.**

## **B. Member Withdrawal**

During the qualification period no member may withdraw from a consortium. For consortia without automatic renewal provisions, members may elect to withdraw at the end of a qualification period by not signing the new consortium agreement for the next qualification period. For consortia with automatic renewal provisions, at the end of each qualification period the lead entity must notify all members of their right not to continue to participate in the consortium for the next qualification period. If one or more members elect not to continue participation, the lead entity must notify the field office in writing. This information must be submitted to OAHF by the date indicated on the consortia calendar (Attachment 3).

**NOTE:** Neither a new agreement nor an amendment are necessary when one or more members withdraw from a renewing consortium with automatic renewal provisions at re-qualification.

## **C. Changing the Lead Entity**

A consortium may wish to change its lead entity under certain circumstances. This change can only occur at the end of its qualification period and requires execution of a new consortium agreement. The consortium, under direction of the new lead entity, is considered a new PJ and must meet the allocation and participation thresholds of the HOME program. The previous lead entity will be responsible for all undisbursed HOME funds and outstanding projects initiated under its consortium agreement and for all long-term responsibilities of the HOME program. The new lead entity will assume responsibility for all HOME funds received during its qualification period(s).

If the lead entity of a new consortium was formerly a HOME PJ, the consortium is considered a new PJ and must meet the allocation and participation thresholds of the HOME program. However, excess accumulated match contributions from any member previously participating in the HOME program, may be counted toward the consortium's match liability.

## **D. Disbanding a Consortium**

Once a consortium is designated a PJ by HUD, it remains a PJ until all remaining funds in its HOME Investment Trust fund are expended. If the consortium's qualification period has ended and it is not re-qualifying for another three-year period, it may elect to return any undisbursed HOME funds to HUD. However, the lead entity has continuing responsibilities to comply with the HOME regulations beyond the qualification period and the term specified in the consortium agreement throughout the periods of affordability for its completed HOME projects. A lead entity's financial and monitoring responsibilities include the following:

**Program Income.** Program income under the HOME Program is defined at 24 CFR 92.2. Program income derived from consortium activities undertaken by a consortium member or within the geographic boundaries of a consortium member continues to be the consortium's program income even after the member terminates its participation in the consortium (24 CFR 92.503(a)(3)). The lead entity could permit a member that no longer participates in the consortium to retain program income as a subrecipient for future HOME projects pursuant to a written agreement (§ 92.503(a)(1)). Program income must be used in accordance with HOME requirements.

**Repayments.** Any HOME funds invested in housing that does not meet the affordability requirements, is terminated before completion, or is determined to be ineligible must be repaid by the consortium. While the lead entity could attempt to collect the amount subject to repayment from a consortium member, project owner, developer, etc., the lead entity is responsible for repayments to HUD (§

92.503(b)).

**Recaptured Funds.** Recaptured funds received from a consortium's homebuyer program during the period of affordability are deposited in its HOME Investment Trust Fund local account. The lead entity may permit a consortium member that no longer participates in the consortium to retain the recaptured funds as a subrecipient pursuant to a written agreement (§ 92.503(c)).

**Monitoring.** The consortium is responsible for reviewing the performance of each subrecipient at least annually (§ 92.504(a)). The lead entity is responsible for applying the same requirements to its members as are applicable to its subrecipients (§ 92.101(d)). The lead entity has continuing monitoring responsibilities during the period of affordability for all activities funded by the consortium.

## **V. DEVELOPING AND SUBMITTING THE CONSOLIDATED PLAN FOR NEW CONSORTIA**

It is important that new consortia have sufficient time to develop their Consolidated Plans and to meet the citizen participation requirements of 24 CFR Part 91. Field Office staff should work informally with new consortia to identify the start of the consolidated program year and to determine the timeframe for developing the Consolidated Plan. The Field Office can then formally notify the consortium of its allocation amount on a predetermined date that triggers the notice of intent to participate and allows enough time for the consortium to submit its Consolidated Plan in accordance with the HOME Program regulations at 24 CFR Part 92. HUD staff should be cautious about releasing allocation information to prospective new PJs that could be considered formal notice that starts the timeframe for the regulatory and statutory deadlines.

The date that the Field Office formally notifies the consortium of its formula allocation amount will determine the date that the Consolidated Plan is due according to the timeline below.

- The consortium submits a written notification of its intent to be a PJ no later than 30 days after receiving notice of its formula allocation amount (Section 92.103).
- The consortium submits a Consolidated Plan to the Field Office within 90 days of providing notification of its intent to be a PJ (Section 92.104).

To receive HOME funds, the consortium submits the Consolidated Plan for the entire geographic area encompassed by the consortium. If an urban county is a member of a HOME consortium, the consortium submits the Consolidated Plan; the urban county, like all other CDBG entitlement grantees in the consortium, is only required to submit its own non-housing Community Development Plan (Section 91.215(e)), Action Plan (Section 91.220) and the required Certifications (Section 91.225(a) and (b)), as part of 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 submitted a complete Strategic Plan may submit only the Action Plan and Certifications unless it is required to submit a new five-year complete Strategic Plan (see Section 91.15(b)). If Joint Grant Agreement participants form a consortium for the HOME program, the Consolidated Plan submitted by the urban county will also serve as the Consolidated Plan for the HOME consortium, because the UGLGs in the consortium are the same as the UGLGs in the urban county Joint Grant Agreement. As required by the Consolidated Plan final rule at 24 CFR § 91.402(a), all members of the consortium must adopt the same program year prior to being approved by the Field Office as a HOME consortium. A newly formed consortium whose members have not adopted the same program year may request a waiver for a transition period to get its members on the same program



year schedule.

## **VI. SCHEDULE OF SUBMISSIONS FOR APPROVING NEW CONSORTIA AND RENEWING EXISTING CONSORTIA**

The following schedule will govern the procedures for approving and renewing consortia:

**NOTE:** When a published date falls on a weekend or a holiday, the deadline will be the next business day.

By **March 1**, to be considered for an allocation of HOME funds in the next fiscal year, all re-qualifying consortia (with or without automatic renewal provisions) and proposed new consortia must provide to their Field Offices written notification of their intent to participate as a consortium.

Field Offices must notify OAHP of any potential new consortia on or before **March 1**. When a potential new consortium is identified, OAHP will work with CPD's System Development and Evaluation Division (SDED) at Headquarters to create a working participation spreadsheet. This spreadsheet will identify members of the proposed consortium, including local incorporations within non-urban counties and will be posted on the CDL.

By **June 1**, the lead entity of a consortium that intends to renew its consortium agreement through automatic renewal provisions must notify each of its members of their right not to participate in the next qualification period.

**NOTE:** This date is provided as a guide to meet the **June 30** deadline. Based on the organizational structure, location and availability of its members, the lead entity may need to allow more time to determine the status of its membership for the next qualification period.

Prior to **June 15**, each member that does not intend to participate in the next qualification period with a consortium that is renewing its agreement through automatic renewal provisions must submit written notification to the lead entity. The lead entity must provide copies of these communications to its Field Office by June 30 so that Headquarters can be notified of any change in consortium membership by August 1.

By **June 30**, a proposed new consortium, a renewing consortium that must sign a new agreement, or a consortium that is amending its current agreement must submit the documents that are required in Section III of this Notice to its Field Office.

**NOTE:** Any delay in receipt of the consortium documents must not postpone the Field Office's ability to meet the **August 1** deadline below.

By **August 1**, Field Offices must approve all consortium agreements and amendments and send these documents to OAHP.

The Field Office must also notify OAHP by August 1 of the continued participation of consortia that are due to re-qualify through automatic renewal provisions with no change in consortium membership.

OAHP updates the working participation spreadsheets posted on the CDL and provides them to SDED. OAHP also scans any new consortium agreements and amendments for storage on the CDL.

By **August 20**, OAHP notifies Field Offices of the availability of the updated working participation

spreadsheets on the CDL. Field Office staff must review the working participation spreadsheet of each new or renewing consortium, (including those with automatic renewal provisions) in the Field Office jurisdiction with the consortium lead entity to verify its accuracy. It is suggested that Field Office staff review the working participation spreadsheet for each consortium, not only those that are due to re-qualify, to avoid any mistakes in participation that result in incorrect formula allocations to consortia.

By **September 10**, Field Office CPD Directors must certify the accuracy of the membership of each consortium due to re-qualify via email to OAHP. The CPD Field Office Director must also communicate in writing any necessary changes to the working participation spreadsheet by this date to allow sufficient time for changes to be reflected in the next year's allocation of HOME funds. Directors are reminded that it is imperative that the information in the worksheet be confirmed with the consortium's lead entity prior to transmitting it to OAHP.

**NOTE: This date may not be extended without prior written authorization from Headquarters.** In order to allow sufficient time to run the formula and meet the statutory deadline of September 30, it is important that Field Office staff certify consortia status with OAHP by September 10.

## **VII. GENERAL INFORMATION**

### **A. Headquarters Contact**

All required documents and correspondence concerning consortia should be submitted to Dora Rivera, Headquarters, Office of Affordable Housing Programs, at [Dora.I.Rivera@hud.gov](mailto:Dora.I.Rivera@hud.gov) or faxed to (202) 708-1744 (this is not a toll-free number).

### **B. Other Resources**

- **HOME Consortia Webpage:**  
[www.hud.gov/offices/cpd/affordablehousing/programs/home/consortia/index.cfm](http://www.hud.gov/offices/cpd/affordablehousing/programs/home/consortia/index.cfm)
- **HOME Consortia List:** Current Consortia and qualification periods:  
[www.hud.gov/offices/cpd/affordablehousing/programs/home/consortia/index.cfm](http://www.hud.gov/offices/cpd/affordablehousing/programs/home/consortia/index.cfm)
- **HOME New PJ Notice:** HUD Notice CPD 06-05, *Instructions for Designating New Participating Jurisdictions; Reserving and Obligating Funds; and Numbering Home Investment Partnership Agreements* or superseding notices:  
[www.hud.gov/offices/cpd/affordablehousing/lawsandregs/notices/#2006](http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/notices/#2006)
- **Consortia Digital Library (CDL):** Includes Consortia working and final participation spreadsheets and PDF versions of current agreements and amendments (this intranet site is accessible to HUD staff only):  
<http://hudconnect.hud.gov/cpd/HOME%20Consortia%20Digital%20Library>
- **HOME Consortia Guidebook:** *Establishing and Managing a Successful Home Consortium Guidebook*, HUD 2006-08-CPD. Copies are available from OAHP or online at:  
[http://www.hud.gov/offices/cpd/affordablehousing/programs/home/consortia/200608\\_guide.pdf](http://www.hud.gov/offices/cpd/affordablehousing/programs/home/consortia/200608_guide.pdf)
- **Consortia Builder – A Tool to Estimate Funding:** Developed to provide guidance on how to combine the demography of proposed member governments for the purpose of qualifying for a HOME

formula allocation. It uses U.S. Census and HOME data to calculate an estimate of the amount of HOME funds that a potential consortium might qualify for under the HOME formula. Having an estimate of the HOME allocation and administrative funds available (10% of the allocation) also helps potential consortia design their regional housing and staffing plans. More information available at: [www.hud.gov/offices/cpd/affordablehousing/programs/home/consortia/builder](http://www.hud.gov/offices/cpd/affordablehousing/programs/home/consortia/builder)

### **C. Paperwork Reduction Act**

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2506-0171. 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.

## **Attachment 1**

### **CHECKLIST FOR AUTOMATIC RENEWAL OF CONSORTIUM AGREEMENTS**

HUD will recognize the automatic renewal of the consortium agreement if:

- ☐ The authorizing resolution of each member unit of general local government authorizes the automatic renewal of the agreement for successive qualification periods;
- ☐ The agreement will remain in effect at least until the HOME funds from each of the federal fiscal years of the agreement's specified qualification period, and each successive qualification period for which the agreement is renewed, are expended on eligible activities;
- ☐ The agreement specifies that it will automatically be renewed for the consortium's participation in successive qualification periods of three federal fiscal years each;
- ☐ The agreement specifies that by the date specified by HUD's consortia designation notice or HOME Consortia web page, the lead entity will notify each consortium member in writing of its right to decide not to participate for the successive qualification period and the lead entity will send a copy of each notification to the HUD Field Office;
- ☐ The agreement specifies that if a consortium member decides not to participate in the consortium for the next qualification period, the lead entity will notify the HUD field office before the beginning of the new qualification period;
- ☐ The agreement specifies that the consortium will adopt any amendments to the agreement that are necessary to meet HUD requirements for consortia agreements in successive qualification periods;
- ☐ The agreement specifies that before the beginning of each new qualification period, the Lead Entity will submit to the HUD Field Office a statement of whether or not any amendments have been made to the agreement, a copy of each amendment to the agreement, and, if the consortium's membership has changed, the state certification required under 24 C.F.R. § 92.101(a)(2)(i); and
- ☐ The agreement specifies that the automatic renewal provision will be void if the lead entity fails to notify a consortium member of its right not to participate for the next qualification period or the lead entity fails to submit a copy of each amendment to the agreement as required.

## **Attachment 2**

### **SAMPLE AUTOMATIC RENEWAL PROVISION**

This agreement shall automatically be renewed for the Consortium's participation in successive qualification periods of three federal fiscal years each. No later than the date specified by HUD's consortia designation notice or HOME Consortia web page, the Lead Entity shall notify each Consortium Member in writing of its right to decide not to participate in the Consortium for the next qualification period and the Lead Entity shall send a copy of each notification to the HUD Field Office.

If a Consortium Member decides not to participate in the Consortium for the next qualification period, the Consortium Member shall notify the Lead Entity, and the Lead Entity shall notify the HUD Field Office, before the beginning of the new qualification period.

Before the beginning of each new qualification period, the Lead Entity shall submit to the HUD Field Office a statement of whether or not any amendments have been made to this agreement, a copy of each amendment to this agreement, and, if the Consortium's membership has changed, the state certification required under 24 C.F.R. § 92.101(a)(2)(i). The Consortium shall adopt any amendments to this agreement that are necessary to meet HUD requirements for consortium agreements in successive qualification periods.

The automatic renewal of the agreement will be void if: the Lead Entity fails to notify a Consortium member or the HUD field office as required under this automatic renewal provision or the Lead Entity fails to submit a copy of each amendment to this agreement as required under this automatic renewal provision.

*NOTE: In addition to the required language for the automatic renewal provision, in order for HUD to recognize the automatic renewal of the agreement, the authorizing resolution of each member unit of general local government must authorize the automatic renewal of the agreement for successive qualification periods, and the agreement must remain effective at least until the HOME funds from each of the federal fiscal years of the agreement's specified qualification period, and each successive qualification period for which the agreement is renewed, are expended on eligible activities.*

### Attachment 3

## HOME CONSORTIA CALENDAR

Summary of Deadlines

DEADLINE	CONSORTIUM	STATUS OF CONSORTIUM			FIELD OFFICE	HEADQUARTERS
		New	Renew (auto and not auto-renewal)	Amended		
<b>March 1</b>	Sends written notification to Field Office of intent to participate	✔	✔		Notifies OAHP of any potential new consortia	SDED creates working participation spreadsheets for new consortium
<b>June 1</b>	Lead entity notifies members of their right not to participate in next qualification period		✔			
<b>June 15</b>	Members notify lead entity of their intent not to participate		✔			
<b>June 30</b>	Submits all required documentation for Field Office review	✔	✔	✔		
<b>August 1</b>		✔	✔	✔	<ul style="list-style-type: none"> <li>Approves new and amended consortium agreements and submits required documentation to OAHP</li> <li>Notifies OAHP of renewing consortia with automatic renewal provisions and no changes in membership</li> </ul>	<ul style="list-style-type: none"> <li>OAHP creates/updates participation spreadsheets and submits to SDED</li> <li>OAHP scans consortia agreements</li> </ul>
<b>August 20</b>		✔	✔	✔	Contacts consortia to confirm that working participation spreadsheets on CDL are accurate	OAHP posts working participation spreadsheets to for Field Office CPD Directors on CDL for verification
<b>September 10</b>		✔	✔	✔	Certifies to OAHP membership of consortia	OAHP certifies accuracy of all consortia to SDED
<b>September 30 (Statutory deadline)</b>	<b>Designation process complete for eligibility to receive HOME funds by formula</b>					