

§92.217

time of occupancy or at the time funds are invested, whichever is later; or

(2) The dwelling units assisted with such funds are occupied by families having such incomes; and

(b) The remainder of:

(1) The families receiving such rental assistance are households that qualify as low-income families (other than families described in paragraph (a)(1) of this section) at the time of occupancy or at the time funds are invested, whichever is later; or

(2) The dwelling units assisted with such funds are occupied by such households.

§92.217 Income targeting: Homeownership.

Each participating jurisdiction must invest HOME funds made available during a fiscal year so that with respect to homeownership assistance, 100 percent of these funds are invested in dwelling units that are occupied by households that qualify as low-income families.

[67 FR 61756, Oct. 1, 2002]

MATCHING CONTRIBUTION REQUIREMENT

§92.218 Amount of matching contribution.

(a) *General.* Each participating jurisdiction must make contributions to housing that qualifies as affordable housing under the HOME program, throughout a fiscal year. The contributions must total not less than 25 percent of the funds drawn from the jurisdiction's HOME Investment Trust Fund Treasury account in that fiscal year, excluding funds drawn for purposes identified in paragraph (c) of this section.

(b) *Shortfall amount from State or local resources.* Amounts made available under §92.102(b)(2) from the resources of a State (other than a transfer of the State's formula allocation), the local participating jurisdiction, or both, to enable the local participating jurisdiction to meet the participation threshold amount are not required to be matched and do not constitute matching contributions.

(c) *HOME funds not required to be matched.* HOME funds used for administrative and planning costs (pursuant to §92.207); community housing develop-

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ment organization operating expenses (pursuant to §92.208); capacity building (pursuant to §92.300(b)) of community housing development organizations; and project specific assistance to community housing development organizations (pursuant to §92.301) when the participating jurisdiction waives repayment under the provisions of §92.301(a)(3) or §92.301(b)(3) are not required to be matched.

(d) *Match contribution for other programs.* Contributions that have been or will be counted as satisfying a matching requirement of another Federal grant or award may not count as satisfying the matching contribution requirement for the HOME program.

§92.219 Recognition of matching contribution.

(a) *Match contribution to HOME-assisted housing.* A contribution is recognized as a matching contribution if it is made with respect to:

(1) A tenant who is assisted with HOME funds;

(2) A HOME-assisted unit;

(3) The portion of a project that is not HOME-assisted provided that at least 50 percent of the housing units in the project are HOME-assisted. If the match contribution to the portion of the project that is not HOME-assisted meets the affordable housing requirements of §92.219(b)(2), the percentage requirement for HOME-assisted units does not apply; or

(4) The commercial space in a mixed-use project in which at least 51 percent of the floor space is residential provided that at least 50 percent of the dwelling units are HOME-assisted.

(b) *Match contribution to affordable housing that is not HOME-assisted.* The following requirements apply for recognition of matching contributions made to affordable housing that is not HOME-assisted:

(1) For tenant-based rental assistance that is not HOME-assisted:

(i) The contribution must be made with respect to a tenant who is assisted with tenant-based rental assistance that meets the requirements of §92.203 (Income determinations) and paragraphs (a), (c), (f), and (i) of §92.209 (Tenant-based rental assistance); and

(ii) The participating jurisdiction must demonstrate in writing that such assistance meets the provisions of §§ 92.203 and 92.209 (except § 92.209(e)).

(2) For affordable housing that is not HOME-assisted:

(i) The contribution must be made with respect to housing that qualifies as affordable housing under § 92.252 or § 92.254.

(ii) The participating jurisdiction or its instrumentality must execute, with the owner of the housing (or, if the participating jurisdiction is the owner, with the manager or developer), a written agreement that imposes and enumerates all of the affordability requirements from § 92.252 and § 92.253(a) and (b) (Tenant protections), or § 92.254, whichever are applicable; the property standards requirements of § 92.251; and income determinations made in accordance with § 92.203. This written agreement must be executed before any match contributions may be made.

(iii) A participating jurisdiction must establish a procedure to monitor HOME match-eligible housing to ensure continued compliance with the requirements of §§ 92.203 (Income determinations), 92.252 (Qualification as affordable housing: Rental housing), 92.253(a) and (b) (Tenant protections) and 92.254 (Qualification as affordable housing: Homeownership). No other HOME requirements apply.

(iv) The match may be in any eligible form of match except those in § 92.220(a)(2) (forbearance of fees), (a)(4) (on-site and off-site infrastructure), (a)(10) (direct cost of supportive services) and (a)(11) (direct costs of homebuyer counseling services).

(v) Match contributions to mixed-use or mixed-income projects that contain affordable housing units will be recognized only if the contribution is made to the project's affordable housing units.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28929, May 28, 1997]

§ 92.220 Form of matching contribution.

(a) *Eligible forms.* Matching contributions must be made from nonfederal resources and may be in the form of one or more of the following:

(1) *Cash contributions from nonfederal sources.* To be recognized as a cash contribution, funds must be contributed permanently to the HOME program (or to affordable housing not assisted with HOME funds), regardless of the form of investment provided to the project. Therefore, to receive match credit for the full amount of a loan to a HOME project, all repayment, interest, or other return on investment of the contribution must be deposited in the local account of the participating jurisdiction's HOME Investment Trust Fund to be used for eligible HOME activities in accordance with the requirements of this part. A cash contribution to affordable housing that is not assisted with HOME funds must be contributed permanently to the project. Repayments of matching contributions in affordable housing projects, as defined in § 92.219(b), that are not HOME-assisted, must be made to the local account of the participating jurisdiction's HOME Investment Trust Fund to get match credit for the full loan amount.

(i) A cash contribution may be made by the participating jurisdiction, non-Federal public entities, private entities, or individuals, except as prohibited under paragraph (b)(4) of this section. A cash contribution made to a nonprofit organization for use in a HOME project may be counted as a matching contribution.

(ii) A cash contribution may be made from program income (as defined by 24 CFR 85.25(b)) from a Federal grant earned after the end of the award period if no Federal requirements govern the disposition of the program income. Included in this category are repayments from closed out grants under the Urban Development Action Grant Program (24 CFR part 570, subpart G) and the Housing Development Grant Program (24 CFR part 850), and from the Rental Rehabilitation Grant Program (24 CFR part 511) after all fiscal year Rental Rehabilitation grants have been closed out.

(iii) The grant equivalent of a below-market interest rate loan to the project that is not repayable to the participating jurisdiction's HOME Investment Trust Fund may be counted as a cash contribution, as follows: