

Subparts 92.207 & 92.209 of the HOME Investment Partnerships Program: Final Rule

§ 92.207 Eligible Administrative and Planning Costs

A participating jurisdiction may expend, for payment of reasonable administrative and planning costs of the HOME program and ADDI, an amount of HOME funds that is not more than ten percent of the sum of the Fiscal Year HOME basic formula allocation plus any funds received in accordance with § 92.102(b) to meet or exceed participation threshold requirements that Fiscal Year. A state that transfers any HOME funds in accordance with § 92.102(b) must exclude these funds in calculating the amount it may expend for administrative and planning costs. A participating jurisdiction may also expend, for payment of reasonable administrative and planning costs of the HOME program and the ADDI described in subpart M of this part, a sum up to ten percent of the program income deposited into its local account or received and reported by its state recipients or subrecipients during the program year. A participating jurisdiction may expend such funds directly or may authorize its state recipients or subrecipients, if any, to expend all or a portion of such funds, provided total expenditures for planning and administrative costs do not exceed the maximum allowable amount. Reasonable administrative and planning costs include:

- a. *General management, oversight and coordination.* Reasonable costs of overall program management, coordination, monitoring, and evaluation. Such costs include, but are not limited to, necessary expenditures for the following:
 1. Salaries, wages, and related costs of the participating jurisdiction's staff. In charging costs to this category the participating jurisdiction may either include the entire salary, wages, and related costs allocable to the program of each person whose primary responsibilities with regard to the program involves program administration assignments, or the prorated share of the salary, wages, and related costs of each person whose job includes any program administration assignments. The participating jurisdiction may use only one of these methods. Program administration includes the following types of assignments:
 - i. Developing systems and schedules for ensuring compliance with program requirements;
 - ii. Developing interagency agreements and agreements with entities receiving HOME funds;
 - iii. Monitoring HOME-assisted housing for progress and compliance with program requirements;

- iv. Developing agreements and monitoring housing not assisted with HOME funds that the participating jurisdiction designates as a matching contribution in accordance with § 92.219(b) for compliance with applicable program requirements;
 - v. Preparing reports and other documents related to the program for submission to HUD;
 - vi. Coordinating the resolution of audit and monitoring findings;
 - vii. Evaluating program results against stated objectives; and
 - viii. Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described in paragraphs (a)(1)(i) through (vii) of this section;
2. Travel costs incurred for official business in carrying out the program;
 3. Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services;
 4. Other costs for goods and services required for administration of the program, including such goods and services as rental or purchase of equipment, insurance, utilities, office supplies, and rental and maintenance (but not purchase) of office space; and
 5. Costs of administering tenant-based rental assistance programs.
- b. *Staff and overhead.* Staff and overhead costs directly related to carrying out the project, such as work specifications preparation, loan processing, inspections, and other services related to assisting potential owners, tenants, and homebuyers (e.g., housing counseling); and staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project, including timely written notices to occupants, referrals to comparable and suitable replacement property, property inspections, counseling, and other assistance necessary to minimize hardship. These costs may be charged as administrative costs or as project costs under § 92.206 (d)(6) and (f)(2), at the discretion of the participating jurisdiction.
- c. *Public information.* The provision of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of projects being assisted with HOME funds.
- d. *Fair housing.* Activities to affirmatively further fair housing in accordance with the participating jurisdiction's certification under 24 CFR part 91.

- e. *Indirect Costs.* Indirect costs may be charged to the HOME program under a cost allocation plan prepared in accordance with OMB Circulars A-87 or A-122 as applicable.
- f. *Preparation of the consolidated plan.* Preparation of the consolidated plan required under 24 CFR part 91. Preparation includes the costs of public hearings, consultations, and publication.
- g. *Other Federal requirements.* Costs of complying with the Federal requirements in subpart H of this part. Project-specific environmental review costs may be charged as administrative costs or as project costs in accordance with § 92.206(d)(8), at the discretion of the participating jurisdiction.

§ 92.209 Tenant-based Rental Assistance: Eligible Costs and Requirements

- a. *Eligible costs.* Eligible costs are the rental assistance and security deposit payments made to provide tenant-based rental assistance for a family pursuant to this section. Administration of tenant-based rental assistance is eligible only under general management oversight and coordination at § 92.207(a).
- b. *General requirement.* A participating jurisdiction may use HOME funds for tenant-based rental assistance only if the participating jurisdiction makes the certification about inclusion of this type of assistance in its consolidated plan in accordance with 24 CFR 91.225(d)(1), 91.325(d)(1), or 91.425(a)(2)(i), and specifies local market conditions that lead to the choice of this option.
- c. *Tenant selection.* The participating jurisdiction must select families in accordance with written tenant selection policies and criteria that are consistent with the following:
 1. *Low-income families.* Tenant-based rental assistance may only be provided to very low- and low-income families. The participating jurisdiction must determine that the family is very low- or low-income before the assistance is provided. During the period of assistance, the participating jurisdiction must annually determine that the family continues to be low-income.
 2. *Preferences for Individuals with Special Needs.*
 - i. The participating jurisdiction may establish a preference for individuals with special needs. The participating jurisdiction may offer, in conjunction with a tenant-based rental assistance program, particular types of non-mandatory services that may be most appropriate for persons with a special need or a particular disability. Generally, tenant-based rental assistance and the related services should be made available to all persons with special needs or disabilities who can benefit from such services.

- ii. The participating jurisdiction may also provide a preference for a specific category of individuals with disabilities (e.g., persons with HIV/AIDS or chronic mental illness) if the specific category is identified in the participating jurisdiction's consolidated plan as having unmet need and the preference is needed to narrow the gap in benefits and services received by such persons.
 - iii. Preferences cannot be administered in a manner that limits the opportunities of persons on any basis prohibited by the laws listed under 24 CFR 5.105(a). For example, a participating jurisdiction may not determine that persons given a preference under the program are therefore prohibited from applying for or participating in other programs or forms of assistance.
- 3. *Existing tenants in the HOME-assisted projects.* A participating jurisdiction may select low-income families currently residing in housing units that are designated for rehabilitation or acquisition under the participating jurisdiction's HOME program. Participating jurisdictions using HOME funds for tenant-based rental assistance programs may establish local preferences for the provision of this assistance. Families so selected may use the tenant-based assistance in the rehabilitated or acquired housing unit or in other qualified housing.
- d. *Portability of assistance.* A participating jurisdiction may require the family to use the tenant-based assistance within the participating jurisdiction's boundaries or may permit the family to use the assistance outside its boundaries.
- e. *Term of rental assistance contract.* The term of the rental assistance contract providing assistance with HOME funds may not exceed 24 months, but may be renewed, subject to the availability of HOME funds. The term of the rental assistance contract must begin on the first day of the term of the lease. For a rental assistance contract between a participating jurisdiction and an owner, the term of the contract must terminate on termination of the lease. For a rental assistance contract between a participating jurisdiction and a family, the term of the contract need not end on termination of the lease, but no payments may be made after termination of the lease until a family enters into a new lease.
- f. *Rent reasonableness.* The participating jurisdiction must disapprove a lease if the rent is not reasonable, based on rents that are charged for comparable unassisted rental units.
- g. *Tenant protections.* The lease must comply with the requirements in § 92.253(a) and (b).
- h. *Maximum subsidy.*
 - 1. The amount of the monthly assistance that a participating jurisdiction may pay to, or on behalf of, a family may not exceed the difference between a rent standard

for the unit size established by the participating jurisdiction and 30 percent of the family's monthly adjusted income.

2. The participating jurisdiction must establish a minimum tenant contribution to rent.
3. The participating jurisdiction's rent standard for a unit size must be based on:
 - i. Local market conditions; or
 - ii. For each unit size, may not be less than 80 percent of the published Section 8 Existing Housing fair market rent (in effect when the payment standard amount is adopted) nor more than the fair market rent or HUD-approved community-wide exception rent (in effect when the participating jurisdiction adopts its rent standard amount). (Community-wide exception rents are maximum gross rents approved by HUD for the Rental Certificate Program under 24 CFR 882.106(a)(3) for a designated municipality, county, or similar locality, which apply to the whole PHA jurisdiction.) A participating jurisdiction may approve on a unit-by-unit basis a subsidy based on a rent standard that exceeds the applicable fair market rent by up to 10 percent for 20 percent of units assisted.
- i. *Housing quality standards.* Housing occupied by a family receiving tenant-based assistance under this section must meet the requirements set forth in 24 CFR 982.401. The participating jurisdiction must inspect the housing initially and re-inspect it annually.
- j. *Security deposits.*
 1. A participating jurisdiction may use HOME funds provided for tenant-based rental assistance to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units whether or not the participating jurisdiction provides any other tenant-based rental assistance under this section.
 2. The relevant State or local definition of "security deposit" in the jurisdiction where the unit is located is applicable for the purposes of this part, except that the amount of HOME funds that may be provided for a security deposit may not exceed the equivalent of two month's rent for the unit.
 3. Only the prospective tenant may apply for HOME security deposit assistance, although the participating jurisdiction may pay the funds directly to the tenant or to the landlord.
 4. HOME funds for security deposits may be provided as a grant or as a loan. If they are provided as a loan, the loan repayments are program income to be used in accordance with § 92.503.

5. Paragraphs (b), (c), (d), (f), (g) and (i) of this section are applicable to HOME security deposit assistance, except that income determinations pursuant to paragraph (c)(1) of this section and Housing Quality Standard inspections pursuant to paragraph (i) of this section are required only at the time the security deposit assistance is provided.
- k. *Program operation.* A tenant-based rental assistance program must be operated consistent with the requirements of this section. The participating jurisdiction may operate the program itself, or may contract with a PHA or other entity with the capacity to operate a rental assistance program. The tenant-based rental assistance may be provided through an assistance contract to an owner that leases a unit to an assisted family or directly to the family. In either case, the participating jurisdiction (or entity operating the program) must approve the lease.
- l. *Use of Section 8 assistance.* In any case where assistance under section 8 of the 1937 Act becomes available to a participating jurisdiction, recipients of tenant-based rental assistance under this part will qualify for tenant selection preferences to the same extent as when they received the tenant-based rental assistance under this part.

