

may apply if the grantee is not exercising recognized powers of self-government).

(ii) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the grantee has satisfactorily met the requirements of paragraph (h)(4)(i) of this section, HUD shall consider the cumulative effect of the following factors, where applicable:

(A) Whether the exception would provide a significant cost benefit or essential expert knowledge to the project which would otherwise not be available;

(B) Whether the affected person has withdrawn from his or her functions or responsibilities, or from the decision-making process, with reference to the specific assisted activity in question;

(C) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (h)(2) of this section;

(D) Whether undue hardship will result, either to the grantee or to the person affected, when weighed against the public interest served by avoiding the prohibited conflict; and

(E) Any other relevant considerations.

(5) *Circumstances under which the conflict prohibition does not apply.* (i) In instances where a person who might otherwise be deemed to be included under the conflict prohibition is a member of a group or class of beneficiaries of the assisted activity and receives generally the same interest or benefits as are being made available or provided to the group or class, the prohibition does not apply, except that if, by not applying the prohibition against conflict of interest, a violation of tribal (or State) laws on conflict of interest would result, the prohibition does apply.

(ii) A public disclosure of the nature of the grant assistance to be provided and the specific basis for the selection of the proposed beneficiaries must be made prior to the submission of an application to HUD. Evidence of this disclosure must be provided as a component of the application.

(i) *Debarment and suspension.* As required by 24 CFR part 24, each grantee must require participants in lower tier covered transactions (e.g., sub-contract-

tors) to include the certification in appendix B of 24 CFR part 24 (that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation from the covered transaction) in any proposal submitted in connection with the lower tier transactions. A grantee may rely on the certification, unless it knows the certification is erroneous.

EFFECTIVE DATE NOTE: At 67 FR 15112, Mar. 29, 2002, § 954.4 was amended by revising paragraph (i), effective April 29, 2002. For the convenience of the user, the revised text is set forth as follows:

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(i) *Debarment and suspension.* As required by 24 CFR part 24, each grantee must require participants in lower tier covered transactions (e.g., sub-contractors) to include a certification that neither it nor its principals are currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the covered transaction, in any proposal submitted in connection with the lower tier covered transactions. A participant may rely on the certification unless it knows the certification is erroneous.

Subpart B—Applying for Assistance

§ 954.100 General.

For each fiscal year, HUD will provide funds for the Indian HOME program, totaling one percent (or such other percentage or amount as authorized by Congress) of the amount appropriated for the HOME program to expand the supply of affordable housing. The funds will be awarded competitively and will be made available pursuant to a NOFA published in the FEDERAL REGISTER, in accordance with the requirements of this part.

§ 954.101 Allocation of funds.

Unless HUD determines for administrative convenience based on the amount of HOME funds available to hold a nationwide competition, HOME funds will be allocated to the HUD Area ONAPs responsible for the Indian HOME program competition based