

## § 954.105

in a particular funding round. Examples of deficient performance may include unresolved serious audit findings and failure to initiate a previous grant.

### § 954.105 Criteria for selection.

There are four categories of projects that may be funded under the HOME Indian program: housing rehabilitation; acquisition of housing; new housing construction; and tenant-based rental assistance. Each project must be evaluated using the following three criteria:

(a) *Project need and design.* The degree to which the proposed project addresses the housing need(s) of the grantee as identified in the application, and the degree to which the proposed project is feasible while maximizing benefits to low-income families.

(b) *Planning and implementation.* The degree to which the financial, administrative, and legal actions necessary to undertake the proposed project have been considered and addressed in the application, and the degree to which the grantee has the administrative staff to carry out the project successfully.

(c) *Leveraging.* The degree to which other sources of assistance, including mortgage insurance, State funds, other Federal grants, and private contributions, are used in conjunction with HOME funds to carry out the proposed project.

### § 954.106 Announcement of competition.

A NOFA will describe the maximum points for each of the selection criteria and any special factors to be evaluated in awarding points under the selection factors. The NOFA will also state the deadline for the submission of applications, the total funding available for the competition and any maximum amount of individual awards.

[Approved by the Office of Management and Budget under OMB control number 2577-0191]

### § 954.107 Grant conditions.

HUD may impose reasonable conditions on grant awards.

### § 954.108 Project amendment.

(a) Grantees shall request prior HUD approval for all project amendments.

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(b) HUD can approve an amendment to a project if:

(1) The amendment is due to factors beyond the control of the grantee; and

(2) The request for approval for a project amendment which involves \$100,000 or more includes all application components required by the NOFA published for the last application cycle (not necessarily the year in which the project was rated and ranked) and the modified project scores high enough to have been funded in the competition for the last application cycle. A rating equal to or greater than the lowest rating received by a funded project during the last rating cycle must be attained by the modified project. The request for approval of an amendment for a project which involves less than \$100,000 does not have to include the components which address the selection criteria. It does require a description of and the reason for the modification.

(c) Approval of an amendment request is subject to the following:

(1) Demonstration by the grantee of the capacity to promptly complete the modified or new project.

(2) The preparation of an amended or new environmental review in accordance with Part 58 of this title, if there is a significant change in the scope or location of approved project.

(d) If a project amendment fails to be approved and the original project is no longer feasible, the grant funds proposed for amendment shall be deobligated by HUD and recaptured.

## Subpart C—Eligible Activities and Affordability

### § 954.300 Eligible activities.

(a) *Eligible activities.* (1) *General.* HOME funds may be used by a grantee to provide incentives to develop and support affordable rental housing and homeownership affordability and to provide payment of reasonable administrative and planning costs. The housing must be permanent or transitional housing, and includes permanent housing for disabled homeless persons, and single-room occupancy housing. The specific eligible costs for these activities are set forth in § 954.303 and § 954.304.

(2) Acquisition of vacant land or demolition must be undertaken only as an integral part of a particular HOME new construction project.

(3) Manufactured housing. Purchase and/or rehabilitation of a manufactured housing unit qualifies as affordable housing only if, at the time of project completion, the unit:

(i) Is situated on a permanent foundation (except—for rehabilitation not involving purchase—when assisting existing unit owners who rent the lot on which their unit sits);

(ii) Is connected to permanent utility hook-ups;

(iii) Is located on land that is held in fee-simple title, land-trust, or long-term ground lease with a term at least equal to that of the appropriate affordability period;

(iv) Meets the construction standards established under 24 CFR part 3280 if produced after June 15, 1976. If the unit was produced prior to June 16, 1976, it must comply with applicable tribal, State or local codes; and

(v) In cases where the owner of a manufactured housing unit does not hold fee-simple title to the land on which the unit is located, the owner may be assisted in purchasing the land under provisions governing rehabilitation not involving purchase.

(b) *Forms of assistance.* A grantee may invest HOME funds as equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies consistent with the purposes of this part, deferred payment loans, grants, or other forms of assistance that HUD determines to be consistent with the purposes of this part. Each grantee has the right to establish the terms of assistance, subject to the requirements of this part.

#### § 954.301 Religious organizations.

HOME funds may not be provided to primarily religious organizations, such as churches, for any activity including secular activities. In addition, HOME funds may not be used to rehabilitate or construct housing owned by primarily religious organizations or to assist primarily religious organizations in acquiring housing. However, HOME funds may be used by a secular entity to acquire housing from a primarily re-

ligious organization, and a primarily religious entity may transfer title to property to a wholly secular entity and the entity may participate in the HOME program in accordance with the requirements of this part. The entity may be an existing or newly established entity (which may be an entity established, but not controlled, by the religious organization). The completed housing project must be used exclusively by the owner entity for secular purposes, available to all persons regardless of religion. In particular, there must be no religious or membership criteria for tenants of the property.

#### § 954.302 Income determinations.

Whenever a grantee makes a determination under this part based on family income or adjusted family income, it must use the definitions of annual income, adjusted income, monthly income, and monthly adjusted income, as those terms are defined in 24 CFR part 950, except when determining the income of a homeowner for an owner-occupied rehabilitation project, the equity in the homeowner's principal residence is excluded from "Net Family Assets."

#### § 954.303 Eligible project costs.

HOME funds may be used to pay the following eligible costs:

(a) *Development hard costs.* The actual cost of constructing or rehabilitating housing. These costs include the following:

(1) For new construction, costs to meet the applicable new construction standards of the grantee and the Model Energy Code referred to in § 954.401;

(2) For rehabilitation, costs:

(i) To meet the applicable rehabilitation standards of the grantee or correcting substandard conditions (minimally, the housing quality standards at § 882.109 of this title), to make essential improvements including energy-related repairs or improvements, improvements necessary to permit the use by handicapped persons, and the abatement of lead-based paint hazards, as required by § 954.4, and to repair or replace major housing systems in danger of failure; and