

however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with tribal law (or State law, which may apply if the Indian tribe is not exercising recognized powers of self-government);

(3) *Excusing owner from responsibility.* Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;

(4) *Waiver of notice.* Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;

(5) *Waiver of legal proceedings.* Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;

(6) *Waiver of a jury trial.* Agreement by the tenant to waive any right to a trial by jury;

(7) *Waiver of right to appeal court decision.* Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and

(8) *Tenant chargeable with cost of legal actions regardless of outcome.* Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

(c) *Termination of tenancy.* An owner may not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted with HOME funds except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, or tribal law (or State law, which may apply if the grantee is not exercising recognized powers of self-government); or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

(d) *Maintenance and replacement.* An owner of rental housing assisted with HOME funds must maintain the premises in compliance with all applicable housing quality standards and local code requirements.

(e) *Tenant selection.* An owner of rental housing assisted with HOME funds must adopt written tenant selection policies and criteria that—

(1) Are consistent with the purpose of providing housing for very low-income and low-income families;

(2) Are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease;

(3) Give reasonable consideration to the housing needs of families that would have a preference under section 6(c)(4)(A) of the U.S. Housing Act of 1937 (Federal selection preferences for admission to public housing); and

(4) Provide for—

(i) The selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and

(ii) The prompt written notification to any rejected applicant of the grounds for any rejection.

### Subpart E—Program Administration

#### § 954.500 Repayment of investment.

(a) HOME funds will be made available pursuant to a HOME Investment Partnership Agreement. The agreement ensures that HOME funds invested in affordable housing are repayable if the housing ceases to qualify as affordable housing before the period of affordability expires. The amount of HOME funds expended on housing assisted with HOME funds that does not meet the affordability requirements for the period specified in § 954.306 or § 954.307, as applicable, must be repaid in accordance with paragraph (b) of this section.

(b) Any repayment of HOME funds (including repayment required if the housing no longer qualifies as affordable housing), and any payment of interest or other return on the investment of HOME funds, that is made before grant close out must be deposited in the grantee's account and used in accordance with the requirements of

this part. A grantee may retain repayments, interest, and other return on investment of HOME funds that are made after grant closeout if the grantee agrees to use the funds for eligible activities.

(c) HUD will recapture HOME funds that are not expended within five years after the last day of the month in which it obligated the funds.

(d) *Termination before completion.* If a project is terminated before its completion, whether voluntarily by the grantee or otherwise, an amount equal to the HOME funds disbursed for the project must be paid by the grantee to its HOME account. If the HOME funds were disbursed by HUD, the amount must be paid to HUD; if the HOME funds were disbursed from the grantee's account, the amount must be paid to the grantee's account. If the amount is not repaid, the grantee will be subject to actions under § 954.600 *Performance reviews*, § 954.601 *Corrective and remedial actions*, and § 954.602 *Notice and opportunity for hearing; sanctions*.

**§ 954.501 Grantee responsibilities; written agreements; monitoring.**

(a) *Responsibilities.* The grantee is responsible for ensuring that HOME funds are used in accordance with all program requirements. The use of subgrantees and contractors does not relieve the grantee of this responsibility.

(b) *Executing a written agreement.* Before disbursing any HOME funds to any entity (e.g., for-profit housing developer, nonprofit organization, homeowner, or IHA) the grantee must enter into a written agreement with the entity ensuring compliance with the requirements of this part. A subgrantee and a contractor must also enter into a written agreement before it disburses funds to any entity. The agreement remains in effect during the period for affordability under § 954.306 or § 954.307, as applicable, or if the entity is a subgrantee, during any period that the entity has control over HOME funds.

(c) *Provisions in written agreement.* At a minimum, the written agreement must include applicable provisions concerning the following items:

(1) *Use of the HOME funds.* The agreement must describe the use of the HOME funds, including the tasks to be

performed, a schedule for completing the tasks, and a budget. These items must be in sufficient detail to provide a sound basis for the grantee effectively to monitor performance under the agreement.

(2) *Affordability.* The agreement must require housing assisted with HOME funds to meet the affordability requirements of § 954.306 or § 954.307, as applicable, and must require repayment of the funds if the housing does not meet the affordability requirements for the specified time period.

(3) *Repayments.* If the entity is a subgrantee, the agreement must state if repayment, interest, and other return on the investment of HOME funds are to be remitted to the grantee or are to be retained for additional eligible activities by the entity.

(4) *Uniform administrative requirements.* If the entity is a subgrantee, the agreement must require the entity to comply with applicable uniform administrative requirements, as described in § 954.502.

(5) *Project requirements.* The agreement must require compliance with project requirements in § 954.400 through § 954.402 of this part, as applicable in accordance with the type of project assisted.

(6) *Housing quality standard.* The agreement must require owners of rental housing assisted with HOME funds to maintain the housing in compliance with applicable Housing Quality Standards and local housing code requirements for the duration of the agreement.

(7) *Other program requirements.* The agreement must require the entity to carry out each activity in compliance with all Federal laws and regulations described in § 954.4.

(8) *Conditions for religious organizations.* Where applicable, the agreement must include the conditions prescribed in § 954.301 for the use of HOME funds by religious organizations.

(9) *Requests for disbursements of funds.* The agreement must specify that the entity may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed.