

Office of the Assistant Secretary, HUD

§ 954.2

(e) *Appropriateness of dwelling unit to family size.* This part may not be construed to require a PHA to offer a dwelling in a designated project to any family who is not of appropriate family size for the dwelling unit. The temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size.

(f) *Prohibition of evictions.* Any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate the unit because of the designation of the project, or because of any action taken by HUD or the PHA in accordance with this part.

(g) *Prohibition of coercion to accept supportive services.* As with other HUD-assisted housing, no disabled family or elderly family residing in designated housing may be required to accept supportive services made available by the PHA under this part.

(h) *Availability of grievance procedures in 24 CFR part 966.* The grievance procedures in 24 CFR part 966, subpart B, which applies to public housing tenants, is applicable to this part.

PART 954—INDIAN HOME PROGRAM

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AUTHORITY: 42 U.S.C. 3535(d) and 12701-12839.

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Subpart A—General Provisions

§ 954.1 Overview.

This part implements the Indian HOME Investment Partnerships Program. In general, under the Indian HOME Investment Partnerships Program, HUD awards funds competitively to eligible applicants to provide more affordable housing. Grantees may use HOME funds to carry out projects through acquisition, rehabilitation, and new construction of housing, and tenant-based rental assistance. Grantees are able to provide assistance in a number of eligible forms, including loans, advances, equity investments, interest subsidies and other forms of investment that HUD approves.

§ 954.2 Definitions.

Adjusted income. See 24 CFR part 950.
Annual income. See 24 CFR part 950.
Area Office of Native American Programs (ONAP). See 24 CFR part 950.

Certification means a written assertion, based on supporting evidence, which must be kept available for inspection by HUD, the Inspector General and the public, which assertion is deemed to be accurate for purposes of this part, unless HUD determines otherwise after inspecting the evidence and providing due notice and opportunity for comment.

Community-wide exception rents are maximum gross rents approved by HUD for the Rental Certificate program under § 882.106(a)(3) of this title for a designated municipality, county, or similar locality, which apply to the whole IHA jurisdiction.

Family. See 24 CFR part 950.

HOME funds means funds made available under this part through grants, plus all repayments and interest or other return on the investment of these funds.

Homeownership means ownership in fee simple title or a leasehold interest of not less than 50 years (including 25 years, automatically renewable for an additional term of 25 years) in a one-to-four unit dwelling or in a condominium unit, ownership or membership in a cooperative, or equivalent form of ownership approved by HUD. The ownership interest may be subject only to the restrictions on resale required under § 954.307(a); mortgages, deeds of trust, or other liens or instruments securing debt on the property as approved by the tribe; or any other restrictions or encumbrances that do not impair the good and marketable nature of title to the ownership interest.

Household means one or more persons occupying a housing unit.

Housing includes site constructed, modular, manufactured housing and housing lots.

HUD. See 24 CFR part 950.

Indian housing authority (IHA). See 24 CFR part 950.

Low-income family. See 24 CFR part 950.

Monthly adjusted income. See 24 CFR part 950.

Monthly income. See 24 CFR part 950.

NOFA means notice of funding availability.

Project means housing developed, acquired, or assisted with HOME funds, and the improvement of this housing.

It includes the site on which the housing is located and all of the HOME-assisted activities associated with the building and the site.

Project completion means that all necessary title transfer requirements and construction work have been performed and the project complies with the requirements of this part (including the property standards adopted under § 954.401); the final drawdown has been disbursed for the project; a Project Completion Report has been submitted and a final accounting of project expenses is provided by the grantee as prescribed by HUD. For tenant-based rental assistance, it also means the final drawdown has been disbursed for the project and the final payment certification has been submitted and processed as prescribed by HUD.

Secretary means the Secretary of Housing and Urban Development.

Single room occupancy (SRO) housing means housing consisting of single room dwelling units that is the primary residence of its occupant or occupants. The unit may contain either food preparation facilities or sanitary facilities, or both. Alternatively, sanitary facilities may be located outside the unit and be shared by tenants in the project. SRO does not include facilities for students.

Subgrantee means a public agency or nonprofit organization retained by the grantee under a written agreement to administer all or a portion of the grantee's program for its HOME grant. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing is not a subgrantee. The grantee's selection of a subgrantee is not subject to the procurement procedures and requirements.

Tenant-based rental assistance is a form of rental assistance in which the assisted tenant may move from a dwelling unit with a right to continued assistance.

Transitional housing means housing that—

(1) Is designed to provide housing and supportive services to persons, including (but not limited to) deinstitutionalized individuals with disabilities, homeless individuals with disabilities,

and homeless families with children; and

(2) Has as its purpose facilitating the movement of individuals and families to independent living within a time period that is set by the grantee before occupancy.

Very low-income family. See 24 CFR part 950.

§ 954.3 Waivers.

Upon determination of good cause, HUD may waive any provision of this part not required by statute. Each waiver must be in writing and must be supported by documentation of the pertinent facts and grounds.

§ 954.4 Other Federal requirements.

(a) *Equal opportunity*—(1) *Section 282.* Pursuant to the requirements of Section 282 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 12832), no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with HOME funds. In addition, HOME funds must be made available in accordance with the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8.

(2) *Civil Rights Act.* Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4), which prohibits discrimination on the basis of race, color or national origin in federally assisted programs, the Fair Housing Act (42 U.S.C. 3601–3620), which prohibits discrimination based on race, color, religion, sex, or national origin in the sale or rental of housing, and Executive Order 11063 (27 FR 11527, 3 CFR 1959–1963 Comp., p. 652), which provides for equal opportunity in housing, do not apply to grantees exercising recognized powers of self-government. Indian tribes and tribal organizations applying on behalf of Indian tribes that do not exercise

recognized powers of self-government must make HOME funds available in accordance with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and Executive Order 11063.

(b) *Indian Civil Rights Act.* The Indian Civil Rights Act (title II of the Civil Rights Act of 1968, 25 U.S.C. 1301–1303) provides, among other things, that “no Indian tribe in exercising powers of self-government shall. . . deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law.” The Indian Civil Rights Act (ICRA) applies to any tribe, band, or other group of Indians subject to the jurisdiction of the United States in the exercise of recognized powers of self-government.

(c) *Indian preference requirements*—(1) *Applicability.* HUD has determined that grants under this part are subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 7(b) provides that any contract, subcontract, grant or subgrant pursuant to an act authorizing grants to Indian organizations or for the benefit of Indians shall require that, to the greatest extent feasible:

(i) Preference and opportunities for training and employment shall be given to Indians; and

(ii) Preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

(2) *Definitions.* (i) The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)) defines “Indian” to mean a person who is a member of an Indian tribe and defines “Indian tribe” to mean any Indian tribe, band, nation, or other organized group or community including any Alaska native village or regional or village corporation as defined or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.