

assistance to community housing development organizations as provided in § 92.301(a)(3) and § 92.301(b)(3)).

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28928, May 28, 1997]

§ 92.206 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 participating jurisdiction and the Model Energy Code referred to in § 92.251;

(2) For rehabilitation, costs:

(i) To meet the property standards in § 92.251;

(ii) To make essential improvements, including energy-related repairs or improvements, improvements necessary to permit use by persons with disabilities, and lead-based paint activities, as required by part 35 of this title.

(3) For both new construction and rehabilitation, costs:

(i) To demolish existing structures;

(ii) To make utility connections including off-site connections from the property line to the adjacent street; and

(iii) To make improvements to the project site that are in keeping with improvements of surrounding, standard projects. Site improvements may include on-site roads and sewer and water lines necessary to the development of the project. The project site is the property, owned by the project owner, upon which the project is located.

(4) For both new construction and rehabilitation of multifamily rental housing, costs to construct or rehabilitate laundry and community facilities which are located within the same building as the housing and which are for the use of the project residents and their guests.

(5) Costs to make utility connections or to make improvements to the project site, in accordance with the provisions of § 92.206(a)(3) (ii) and (iii) are also eligible in connection with acquisition of standard housing.

(b) *Refinancing costs.* The cost to refinance existing debt secured by housing that is being rehabilitated with HOME funds:

(1) For single-family (1- to 4-family) owner-occupied housing when loaning HOME funds to rehabilitate the housing, if the refinancing is necessary to reduce the overall housing costs to the borrower and make the housing more affordable.

(2) For multifamily projects, when loaning HOME funds to rehabilitate the units if refinancing is necessary to permit or continue affordability under § 92.252. The participating jurisdiction must establish refinancing guidelines and state them in its consolidated plan described in 24 CFR part 91. Regardless of the amount of HOME funds invested, the minimum affordability period shall be 15 years. The guidelines shall describe the conditions under which the participating jurisdictions will refinance existing debt. At minimum, the guidelines must:

(i) Demonstrate that rehabilitation is the primary eligible activity and ensure that this requirement is met by establishing a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing;

(ii) Require a review of management practices to demonstrate that disinvestment in the property has not occurred, that the long term needs of the project can be met and that the feasibility of serving the targeted population over an extended affordability period can be demonstrated;

(iii) State whether the new investment is being made to maintain current affordable units, create additional affordable units, or both;

(iv) Specify the required period of affordability, whether it is the minimum 15 years or longer;

(v) Specify whether the investment of HOME funds may be jurisdiction-wide or limited to a specific geographic area, such as a neighborhood identified in a neighborhood revitalization strategy under 24 CFR 91.215(e)(2) or a Federally designated Empowerment Zone or Enterprise Community; and

(vi) State that HOME funds cannot be used to refinance multifamily loans

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made or insured by any Federal program, including CDBG.

(c) *Acquisition costs.* Costs of acquiring improved or unimproved real property, including acquisition by homebuyers.

(d) *Related soft costs.* Other reasonable and necessary costs incurred by the owner or participating jurisdiction and associated with the financing, or development (or both) of new construction, rehabilitation or acquisition of housing assisted with HOME funds. These costs include, but are not limited to:

(1) Architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups.

(2) Costs to process and settle the financing for a project, such as private lender origination fees, credit reports, fees for title evidence, fees for recordation and filing of legal documents, building permits, attorneys fees, private appraisal fees and fees for an independent cost estimate, builders or developers fees.

(3) Costs of a project audit that the participating jurisdiction may require with respect to the development of the project.

(4) Costs to provide information services such as affirmative marketing and fair housing information to prospective homeowners and tenants as required by § 92.351.

(5) For new construction or rehabilitation, the cost of funding an initial operating deficit reserve, which is a reserve to meet any shortfall in project income during the period of project rent-up (not to exceed 18 months) and which may only be used to pay project operating expenses, scheduled payments to a replacement reserve, and debt service. Any HOME funds placed in an operating deficit reserve that remain unexpended after the period of project rent-up may be retained for project reserves if permitted by the participating jurisdiction.

(6) 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, may be charged to project costs only if the

project is funded and the individual becomes the owner or tenant of the HOME-assisted project. For multi-unit projects, such costs must be allocated among HOME-assisted units in a reasonable manner and documented.

(7) For both new construction and rehabilitation, costs for the payment of impact fees that are charged for all projects within a jurisdiction.

(8) Costs of environmental review and release of funds in accordance with 24 CFR part 58 which are directly related to the project.

(e) *Community housing development organization costs.* Eligible costs of project-specific assistance are set forth in § 92.301.

(f) *Relocation costs.* The cost of relocation payments and other relocation assistance to persons displaced by the project are eligible costs.

(1) Relocation payments include replacement housing payments, payments for moving expenses, and payments for reasonable out-of-pocket costs incurred in the temporary relocation of persons.

(2) Other relocation assistance means 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.

(g) *Costs relating to payment of loans.* If the HOME funds are not used to directly pay a cost specified in this section, but are used to pay off a construction loan, bridge financing loan, or guaranteed loan, the payment of principal and interest for such loan is an eligible cost only if:

(1) The loan was used for eligible costs specified in this section, and

(2) The HOME assistance is part of the original financing for the project and the project meets the requirements of this part.

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