

(d) An organization that participates in the HOME program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(e) HOME funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. HOME funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, HOME funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to HOME funds in this part. Sanctuaries, chapels, or other rooms that a HOME-funded religious congregation uses as its principal place of worship, however, are ineligible for HOME-funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (see 24 CFR parts 84 and 85).

(f) If a state or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.

[68 FR 56404, Sept. 30, 2003]

**§ 92.258 Elder cottage housing opportunity (ECHO) units.**

(a) *General.* HOME funds may be used for the initial purchase and initial placement costs of elder cottage housing opportunity (ECHO) units that meet the requirements of this section, and that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings.

(b) *Eligible owners.* The owner of a HOME-assisted ECHO unit may be:

(1) The owner-occupant of the single-family host property on which the ECHO unit will be located;

(2) A participating jurisdiction; or

(3) A non-profit organization.

(c) *Eligible tenants.* During the affordability period, the tenant of a HOME-assisted ECHO unit must be an elderly or disabled family as defined in 24 CFR 5.403 and must also be a low-income family.

(d) *Applicable requirements.* The requirements of § 92.252 apply to HOME-assisted ECHO units, with the following modifications:

(1) Only one ECHO unit may be provided per host property.

(2) The ECHO unit owner may choose whether or not to charge the tenant of the ECHO unit rent, but if a rent is charged, it must meet the requirements of § 92.252.

(3) The ECHO housing must remain affordable for the period specified in § 92.252(e). If within the affordability period the original occupant no longer occupies the unit, the ECHO unit owner must:

(i) Rent the unit to another eligible occupant on site;

(ii) Move the ECHO unit to another site for occupancy by an eligible occupant; or

(iii) If the owner of the ECHO unit is the host property owner-occupant, the owner may repay the HOME funds in accordance with the recapture provisions imposed by the participating jurisdiction consistent with § 92.254(a)(5)(ii). The participating jurisdiction must use the recaptured HOME funds for additional HOME activities.

(4) The participating jurisdiction has the responsibility to enforce the project requirements applicable to ECHO units.

**Subpart G—Community Housing Development Organizations**

**§ 92.300 Set-aside for community housing development organizations (CHDOs).**

(a)(1) Within 24 months after HUD notifies the participating jurisdiction of HUD's execution of the HOME Investment Partnerships Agreement, the participating jurisdiction must reserve not less than 15 percent of the HOME

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allocation for investment only in housing to be developed, sponsored, or owned by community housing development organizations. For a State, the HOME allocation includes funds reallocated under § 92.451(c)(2)(i) and, for a unit of general local government, funds transferred from a State under § 92.102(b). The funds are reserved when a participating jurisdiction enters into a written agreement with the community housing development organization. The funds must be provided to a community housing development organization, its subsidiary, or a partnership of which it or its subsidiary is the managing general partner. If a CHDO owns the project in partnership, it or its wholly owned for-profit or non-profit subsidiary must be the managing general partner. In acting in any of the capacities specified, the community housing development organization must have effective project control. In addition, a community housing development organization, in connection with housing it develops, sponsors or owns with HOME funds provided under this section, may provide direct homeownership assistance (e.g. downpayment assistance) and not be considered a subrecipient.

(2) The participating jurisdiction determines the form of assistance, e.g., grant or loan, that the community housing development organization receives and whether any proceeds must be returned to the participating jurisdiction or may be retained by the community housing development organization. While the proceeds the participating jurisdiction permits the community housing development organization to retain are not subject to the requirements of this part, the participating jurisdiction must specify in the written agreement with the community housing development organization whether they are to be used for HOME-eligible or other housing activities to benefit low-income families. However, funds recaptured because housing no longer meets the affordability requirements under § 92.254(a)(5)(ii) are subject to the requirements of this part in accordance with § 92.503.

(b) Each participating jurisdiction must make reasonable efforts to identify community housing development

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organizations that are capable, or can reasonably be expected to become capable, of carrying out elements of the jurisdiction's approved consolidated plan and to encourage such community housing development organizations to do so. If during the first 24 months of its participation in the HOME Program a participating jurisdiction cannot identify a sufficient number of capable community housing development organizations, up to 20 percent of the minimum community housing development organization setaside of 15 percent specified in paragraph (a) of this section, above, (but not more than \$150,000 during the 24 month period) may be committed to develop the capacity of community housing development organizations in the jurisdiction.

(c) Up to 10 percent of the HOME funds reserved under this section may be used for activities specified under § 92.301.

(d) HOME funds required to be reserved under this section are subject to reduction, as provided in § 92.500(d).

(e) If funds for operating expenses are provided under § 92.208 to a community housing development organization that is not also receiving funds under paragraph (a) of this section for housing to be developed, sponsored or owned by the community housing development organization, the participating jurisdiction must enter into a written agreement with the community housing development organization that provides that the community housing development organization is expected to receive funds under paragraph (a) of this section within 24 months of receiving the funds for operating expenses, and specifies the terms and conditions upon which this expectation is based.

(f) *Limitation on community housing development organization operating funds.* A community housing development organization may not receive HOME funding for any fiscal year in an amount that provides more than 50 percent or \$50,000, whichever is greater, of the community housing development organization's total operating expenses in that fiscal year. This also includes organizational support and housing education provided under section 233(b)(1), (2), and (6) of the Act, as well

as funds for operating expenses provided under § 92.208.

[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28930, May 28, 1997]

**§ 92.301 Project-specific assistance to community housing development organizations.**

(a) *Project-specific technical assistance and site control loans*—(1) *General*. Within the percentage specified in § 92.300(c), HOME funds may be used by a participating jurisdiction to provide technical assistance and site control loans to community housing development organizations in the early stages of site development for an eligible project. These loans may not exceed amounts that the participating jurisdiction determines to be customary and reasonable project preparation costs allowable under paragraph (a)(2) of this section. All costs must be related to a specific eligible project or projects.

(2) *Allowable costs*. A loan may be provided to cover project costs necessary to determine project feasibility (including costs of an initial feasibility study), consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, option to acquire property, site control and title clearance. General operational expenses of the community housing development organization are not allowable costs.

(3) *Repayment*. The community housing development organization must repay the loan to the participating jurisdiction from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

(b) *Project-specific seed money loans*—(1) *General*. Within the percentage specified in § 92.300(c), HOME funds may be used to provide loans to community housing development organizations to cover preconstruction project costs that the participating jurisdiction determines to be customary and reason-

able, including, but not limited to the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies, and legal fees.

(2) *Eligible sponsors*. A loan may be provided only to a community housing development organization that has, with respect to the project concerned, site control (evidenced by a deed, a sales contract, or an option contract to acquire the property), a preliminary financial commitment, and a capable development team.

(3) *Repayment*. The community housing development organization must repay the loan to the participating jurisdiction from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in whole or in part, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the community housing development organization.

**§ 92.302 Housing education and organizational support.**

HUD is authorized to provide education and organizational support assistance, in conjunction with HOME funds made available to community housing development organizations in accordance with section 233 of the Act. HUD will publish a notice in the FEDERAL REGISTER announcing the availability of funding under this section, as appropriate. The notice need not include funding for each of the eligible activities, but may target funding from among the eligible activities.

**§ 92.303 Tenant participation plan.**

A community housing development organization that receives assistance under this part must adhere to a fair lease and grievance procedure approved by the participating jurisdiction and provide a plan for and follow a program of tenant participation in management decisions.