

members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(d) A religious organization's exemption from the federal prohibition on employment discrimination on the basis of religion, set forth in section 702(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1), is not forfeited when the organization participates in a HUD program. Some HUD programs, however, contain independent statutory provisions that impose certain non-discrimination requirements on all grantees. Accordingly, grantees should consult with the appropriate HUD program office to determine the scope of applicable requirements.

(e) An organization that receives direct funds under the Indian 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.

(f) Indian 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. Indian 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, Indian 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 Indian HOME funds in this part. Sanctuaries, chapels, or other rooms that an Indian HOME-funded religious congregation uses as its principal place of worship, however, are ineligible for Indian 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 governmentwide regulations governing real property disposition (*see* 24 CFR parts 84 and 85).

(g) If a tribal government voluntarily contributes its own funds to supplement federally funded activities, the

tribal 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. Further, if a state or local government is required to contribute matching funds to supplement a federally funded activity, the matching funds are considered commingled with the federal assistance and therefore subject to the requirements of this section. Some HUD programs requirements govern any project or activity assisted under those programs. Accordingly, grantees should consult with the appropriate HUD program office to determine the scope of applicable requirements

[69 FR 62169, Oct. 22, 2004]

§ 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

(ii) To refinance existing debt secured by a single-family owner-occupied unit when loaning HOME funds to rehabilitate the unit, if the overall housing costs of the borrower will be reduced and made more affordable.

(3) For both new construction and rehabilitation, costs to demolish existing structures and for improvements to the project site that are in keeping with improvements of surrounding, standard projects, and costs to make utility connections. The "site" of the improvements may include property adjacent to or near the immediate site of the housing if this property and the housing are owned by the same entity (e.g., the housing is owned—at least until sold to homebuyers—by the grantee and the housing and the improvements are located on a reservation). If the site improvements will benefit other housing (existing or future) in addition to housing assisted with the particular Indian HOME grant, only a pro-rated share of the site improvements may be charged against the HOME grant. Site improvements include roads, streets, sidewalks, curbs, gutters, and connections to utilities, such as storm and sanitary sewers, water supply, gas, and electricity, and the pro rata development cost of facilities for water supply and sewerage collection utilities.

(4) For new construction or substantial rehabilitation (an expenditure of \$25,000 or more per home) 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 operating expenses, reserve for replacement payments, and debt service. Any HOME funds placed in an operating deficit reserve that remain unexpended when the reserve terminates must be returned to the grantee's account and shall be reprogrammed for other activities eligible under this part or returned to HUD promptly.

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

(c) *Related soft costs.* Other reasonable and necessary costs incurred by the

owner 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, builder and developer fees;

(3) Costs of a project audit that the grantee may require with respect to the development of a specific project; and

(4) Costs to pay impact fees that are charged to all housing.

(d) *Relocation costs.* Costs of relocation payments and other relocation assistance for permanently and temporarily relocated individuals, families, businesses, private nonprofit organizations, and farm operations where assistance is required under § 954.4 or determined by the grantee to be appropriate under § 954.4.

(e) *Costs related to tenant-based rental assistance.* Eligible costs are the rental assistance and security deposit payments made to provide tenant-based rental assistance for a family.

§ 954.304 Eligible administrative costs.

Eligible administrative costs means reasonable and necessary costs, as described in OMB Circular A-87, (available from the Executive Office of the President, Publication Service, 725 17th Street, N.W., Suite G-2200, Washington, DC 20503; Telephone, (202) 395-7332) incurred by the grantee and related to the planning and execution of HOME activities assisted in whole or in part with funds provided under this part. The grantee may use up to 15 percent of the HOME funds for the payment of eligible administrative costs.