

Finally, on September 13, 1994 (59 FR 47010), the Department published a final rule that adopted OMB's revised Circular A-110 at 24 CFR part 84. This rule makes conforming changes to replace references to Circular A-110 with references to 24 CFR part 84 at §§ 92.2 (in the definition of *Community housing development organization*), 92.356 (a)(1) and (a)(2), and 92.505(b).

Solicitation of Comments for the Final Rule

The Department is also taking this opportunity to solicit comments on the current interim rule in anticipation of preparing a final rule for the HOME Program. The current interim rule consists of all six interim rules which have been published for the program since its inception. The Department has received valuable public input on all those rules and has made many changes based on public comment. As the Department prepares the final HOME rule, it requests that commenters distinguish between issues that can be changed by regulation and those that would require legislative action.

To facilitate public review, the Department has made available the HOME statute and consolidated interim rule through the *American Communities Information Center at 1-800-998-9999*. Commenters may obtain copies of both the statute and rule by calling the information center.

The Department also presents a discussion of particular sections of the rule and raises specific questions which it requests that comments address, below:

Section 92.2 Definitions

Community housing development organization (CHDO)—The Department has received numerous comments on the definition of CHDO, with regard to purpose, composition, experience, and history. The Department invites further comment from State and local officials based on the experience of qualifying CHDOs and from nonprofits who have participated in the qualification process and have competed for CHDO setaside funds.

Homeownership—While ownership or membership in a cooperative has been included in the definition of homeownership, the Department is considering allowing participating jurisdictions to classify limited equity cooperative and/or mutual housing either as homeownership or rental housing based on State law. Comment is requested.

Project—The Department is considering changes to include in the definition of project: (1) new

construction subdivisions that cover more than a four block area, and (2) loan guarantee programs funded by the participating jurisdiction which by their nature cover loans to a number of units at diverse sites.

Sections 92.60–92.66 Insular Areas

The Department invites comments from insular area participants, who now have three years of program experience, as to whether changes are needed in the provisions that guide insular applications and operations.

Section 92.202 Site and Neighborhood Standards

The Department invites comment on the application of site and neighborhood standards and their effect on the siting of new construction projects.

Section 92.203 Income Determinations

Because continued affordability and eligibility were contemplated in HOME-assisted rental housing, the Department adopted the Section 8 definitions of income in 24 CFR part 813 for use in the HOME program. Recently, in an August 10, 1994 proposed rule in the **Federal Register**, the Department invited comment on income definitions in the Community Development Block Grant Program. The Department will consider those comments for the final HOME rule, but also invites additional comments on this subject.

Section 92.205 Eligible Activities: General

The Department has permitted the refinancing of single family properties under certain conditions but has not allowed refinancing of multifamily properties. Refinancing of multifamily projects has not generally been viewed as a net increase in the number of affordable housing units, a primary goal of the program. The Department would welcome comments regarding when and under what conditions multifamily refinancing might be permitted.

Sections 92.218–92.222 Match Requirements

The Department in this interim rule recognizes the waiver of fees or charges by private or public institutions as a source of match. The Department is open to additional public comment about other possible sources of match which meet the statutory tests of not being derived from Federal funds and being a true contribution to affordable housing. Should the Department count State and local contributions to social services provided in HOME-assisted or HOME-eligible housing as a source of match? Another issue on which the

Department requests comment is whether donated professional services should be valued at a higher rate than other volunteer labor currently valued at \$10 per hour. Comment on these and other possible sources of match are invited.

Section 92.251 Property Standards

The Department in implementing the HOME Program took note of the program's purpose to expand the supply of decent, safe, and sanitary housing, and adopted the Section 8 Housing Quality Standards as a minimum standard. The Department is open to suggestions as to whether a different standard might be more suitable, particularly as it relates to new construction. Should the Department adopt the Minimum Property Standards? Allow the PJ to adopt a written 'decent, safe and sanitary' standard? Keep the Section 8 HQS for tenant based rental assistance units only? Continue to require the Cost Effective Energy Standards for units with over \$25,000 in rehabilitation? Authorize emergency repairs to structures that may not meet housing quality standards? Comment is invited on the housing standards issue.

Section 92.254 Qualification as Affordable Housing: Homeownership

The Department in this interim rule takes further steps to make the recapture provisions of the rule more flexible. In recognizing an owner's investment in the property, the rule permits a greater return from net proceeds to the homeowner.

The Department also invites comment on the appraisal requirement to determine eligibility i.e. the property has an initial purchase price that does not exceed 95 percent of the median purchase price for the area. Alternative approaches to assure that HOME funds are invested only in modest housing are requested.

The Department also wishes comment on the permanent foundation requirement for manufactured housing when the owner owns both the unit and the land on which it is situated.

Section 92.257 Religious Organizations

In the August 26, 1994 interim rule, the Department modified this section to be more permissive with regard to control of a secular entity established by a religious organization. The Department invites further comment on this section of the rule.