(7) *Other program requirements.* The agreement must require the entity to carry out each activity in compliance with all Federal laws and regulations described in § 954.4.

(8) *Conditions for religious organizations.* Where applicable, the agreement must include the conditions prescribed in § 954.301 for the use of HOME funds by religious organizations.

(9) *Requests for disbursements of funds.* The agreement must specify that the entity may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed.

(10) *Reversion of assets.* If the entity is a subgrantee, the agreement must specify that upon expiration of the agreement, the entity must transfer to the grantee any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds.

(11) *Records and reports.* The agreement must specify the particular records that must be maintained and any information or reports that must be submitted in order to assist the grantee in meeting its recordkeeping and reporting requirements.

(12) *Enforcement of the agreement.* The agreement must provide for a means of enforcement by the grantee or the intended beneficiaries. In addition, the agreement must specify remedies for breach of the provisions of the agreement. If the entity is a subgrantee, the agreement must specify that, in accordance with 24 CFR 85.43, suspension or termination may occur if the entity materially fails to comply with any term of the agreement, and that the agreement may be terminated for convenience in accordance with 24 CFR 85.44.

(13) *Duration of the agreement.* The agreement must specify that the agreement is in effect for the period of affordability required by the grantee under § 954.306 or § 954.307.

(d) *Monitoring.* The grantee is responsible for managing the day-to-day operations of its HOME program, for monitoring the performance of all entities receiving HOME funds from the grantee to assure compliance with the requirements of this part, and for taking appropriate action when performance problems arise.

(1) Not less than annually, the grantee must review the activities of owners of rental housing assisted with HOME funds to assess compliance with the requirement of this part, as set forth in the written agreement under paragraphs (b) and (c) of this section. For multifamily housing, each review must include on-site inspection to determine compliance with housing codes and the requirements of this part. For rental housing containing one- to four-dwelling units, an on-site review must be made once within each two-year period. The results of each review must be included in the grantee's performance report.

(2) Not less than annually, the grantee must review the performance of each contractor and subgrantee.

§ 954.502 Applicability of uniform administrative requirements.

(a) *Governmental entities.* The requirements of OMB Circular No. A–87 and the following requirements of 24 CFR part 85 apply to the grantee and any governmental subgrantee receiving HOME funds: §§ 85.6, 85.12, 85.20, 85.21, 85.22, 85.26, 85.32, 85.33, 85.35, 85.36, 85.43, 85.44, 85.51, and 85.52.

(b) *Non-profit organizations.* The requirements of OMB Circular No. A–122 (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)) and the following requirements of 24 CFR part 84 apply to subgrantees receiving HOME funds that are private nonprofit organizations: §§ 84.12, 84.22, 84.23, 84.25, 84.51, 84.52, and 84.71.

(c) *Alternatives to bonding.* For construction contracts that exceed the amount for small purchase under 24 CFR 85.36, each contractor shall be required to provide bid guarantees and adequate assurance of performance and payment acceptable to HUD in accordance with 24 CFR 85.36(h). Performance and payment bonds for 100 percent of the total contract price are acceptable to HUD. There may be circumstances under which the bonding requirements of § 85.36(h) are inconsistent with other responsibilities and obligations of the

grantee. Alternative methods to provide performance and payment assurance may include:

(1) Deposit with the grantee of a cash escrow of not less than 20 percent of the total contract price, subject to reduction during the warranty period, commensurate with potential risk;

(2) Letter of credit for 25 percent of the total contract price, unconditionally payable upon demand of the grantee, subject to reduction during the warranty period commensurate with potential risk.

§ 954.503 Audit.

Audits of the grantee and subgrantees must be conducted in accordance with 24 CFR parts 44 and 45, as applicable.

§ 954.504 Closeout.

(a) A grant will be closed out when all the following criteria have been met:

(1) All funds to be closed out have been drawn down and expended for completed project costs, or funds not drawn down and expended have been deobligated by HUD;

(2) Project Completion Reports for all projects using funds to be closed out have been submitted. HUD will use data contained in the project completion reports in the preparation of the Closeout Reports;

(3) The grantee has been reviewed and audited and HUD has determined that all requirements, including affordability (for which also see paragraph (b)(2) of this section), are met or all monitoring and audit findings have been resolved.

(i) A signed copy of the grantee's most recent audit report—covering all funds to be closed out—must be received by HUD. If the audit review by the Department of Interior (DOI) results in significant delays, the Area ONAP may request a signed copy of the audit prior to DOI review and use it as the document needed prior to closeout. If the audit does not cover all funds to be closed out, the closeout may proceed, provided the grantee agrees in the Closeout Report that any costs paid with the funds that were not audited must be subject to the grantee's next single audit and that the grantee may be required to repay to HUD any disallowed costs based on the results of the audit.

(ii) The on-site monitoring of the grantee by the Area ONAP must include verification of data reflected in the Closeout Report and reconciliation of any discrepancies which may exist between HUD data and grantee records.

(b) The Closeout Report contains the final data on the funds and must be signed by the grantee and HUD. In addition, the report must contain:

(1) A provision regarding unaudited funds (''closeout subject to audit''), required by paragraph (a)(3)(i) of this section; and

(2) A provision requiring the grantee to continue to meet the requirements applicable to housing projects for the period of affordability specified in § 954.306 or § 954.307, to keep records demonstrating that the requirements have been met and to repay the HOME funds, as required by § 954.500, if the housing fails to remain affordable for the required period.

§ 954.505 Recordkeeping.

(a) *General.* Each grantee must establish and maintain sufficient records to enable HUD to determine whether the grantee has met the requirements of this part. Records must be kept in a manner that identifies the source and use of funds for each project.

(b) *Period of record retention.* (1) Except as provided in paragraphs (b)(2), (b)(3), or (b)(4) of this section, records must be retained for three years after closeout of the funds.

(2) If any litigation, claim, negotiation, audit, or other action has been started before the expiration of the regular period specified in paragraph (b)(1) of this section, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular period, whichever is later.

(3) Records regarding project requirements (§ 954.400 to § 954.402) and other federal requirements (§ 954.4) that apply for the duration of the period of affordability, as well as the written agreement and inspection and monitoring reports must be retained for three