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March 30, 2011

**Docket No. FR-5236-P-01
Public Housing Capital Fund Program**

**COMMENTS OF:
THE INTERNATIONAL CODE COUNCIL (ICC)
500 New Jersey Ave, NW
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The International Code Council (ICC) offers the following comments on the Proposed Rule, Docket No. **FR-5236-P-01**, published on February 7, 2011.

Background

The International Code Council (ICC) is a membership association dedicated to building safety, fire prevention, and energy efficiency. The International Codes, or I-Codes, published by ICC, provide minimum safeguards for people at home, at school and in the workplace. Building codes benefit public safety and support the industry's need for one set of codes without regional limitations. The International Code Council also publishes the International Energy Conservation Code (IECC), which is referenced in the Energy Policy Act of 2005, the Energy Independence and Security Act (EISA) of 2007, and is a national requirement in section 410 of the American Recovery and Reinvestment Act of 2009.

Fifty states and the District of Columbia have adopted the I-Codes at the state or jurisdictional level. Federal agencies including the Architect of the Capitol, General Services Administration, National Park Service, Department of State, U.S. Forest Service and the Veterans Administration also enforce the I-Codes for the facilities that they own or manage. The Department of Defense references the International Building Code for constructing military facilities, including those that house U.S. troops, domestically and abroad. Puerto Rico and the U.S. Virgin Islands enforce one or more of the I-Codes.

The International Code Council (ICC) was established in 1994 as a non-profit organization dedicated to developing a single set of comprehensive and coordinated national model construction codes. The founders of the ICC are Building Officials and Code Administrators International, Inc. (BOCA), International Conference of Building Officials (ICBO), and Southern Building Code Congress International, Inc. (SBCCI). Since the early part of the last century,



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these non-profit organizations developed three separate sets of model codes used throughout the United States. Although regional code development has been effective and responsive to our country's needs, the time came for a single set of codes. The nation's three model code groups responded by creating the International Code Council and by developing codes without regional limitations; the International Codes.

Summary

The proposed rule would incorporate energy standards at Sec 905.200 in several subsections related to what types of projects are eligible for Capital Funds, and in Sec. 905.312 in various subsections related to mandatory requirements for Capital Fund projects.

We endorse the addition of the International Energy Conservation Code (IECC) to these Sections, and believe that use of Department of Housing and Urban Development (HUD) Capital Funds for projects meeting IECC requirements serves the best interests of clients of Public Housing Authorities, as well as the interest of the Federal government to have efficient buildings funded by the Capital Funds. HUD should reference the 2009 IECC to maximize energy efficiency over the life of these projects, which may be fifty years or more.

We also believe that requiring the use of the current International Building Code (IBC) for all projects will allow the Department to simultaneously achieve several goals, as many requirements are included as mandatory or compliance options in the IBC.

Proposed Rule

905.200- Eligible Activities

The proposed rule specifies at Sec. 905.200 that the eligible activities include "(6) Planned Code Compliance" and specifies both codes published by the International Code Council, such as the International Building Code, the International Residential Code, and the International Property Maintenance Code. We support the inclusion of language specifying these codes, especially the Property Maintenance Code, which provides for assuring safety and health in existing buildings, a prime consideration for HUD public housing projects.

In addition, this section specifies the "2006 International Energy Conservation Code... or a successor energy code or standard that has been adopted by HUD pursuant to 42 U.S.C. 12709 or other relevant authority."

The current version of the IECC is the 2009 edition, which has been found by the Department of Energy to be more energy efficient than the 2006 IECC. In addition, the 2009 IECC is estimated to produce, on average, 15% more energy efficient buildings than buildings built to the 2006 IECC. The American Recovery and Reinvestment Act specified that states make a commitment to achieve 90% compliance with the 2009 IECC by February 2017, for states wishing to receive their share of over \$3 billion in State Energy Program funding. By distributing those funds, DOE has determined that all 50 state governors met the requirement to notify the Department of Energy of their intention to achieve compliance with the 2009 IECC, within eight years of the



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passage of ARRA. In this context, it is reasonable to also require that public housing projects meet the same requirements that state governments have pledged to meet. Given this situation, we believe that HUD should quickly make the determination required in 42 U.S.C. 12709(b), just as the Secretary of Energy has recently made a nearly identical determination under 42 U.S.C. 6833 concerning the 2009 IECC.

905.312 Design and Construction

Because this section specifies the required design and construction requirements for affected building projects, it is worthwhile to mention that the requirements in the International Building Code(IBC), and the International Energy Code, both referenced in 905.312 (b)(1), will also provide compliance with several other requirements listed in this section:

- a) Since all 50 states have adopted the International Building Code, either at the state or local level, compliance with the IBC will also meet “state and local codes” referenced in 905.312(b)(2)
- b) Compliance with ASHRAE 90.1 is an accepted alternative means of compliance with Chapter 5 of the IECC, which is considered equivalent to the ASHRAE 90.1 requirements, with respect to commercial buildings.
- c) Accessibility requirements listed in Sec. 905.312(b)(4) are met by the requirements in the IBC, and the Department of Justice has determined that compliance with the 2006 IBC meets the requirements for Title II of ADA, and DOJ implementing regulations.

We would also re-iterate the suggestion here that HUD consider referencing the current 2009 IECC in the design and construction section, in order for HUD projects to be at least as energy efficient as the requirements in most states, and in order to be consistent with Administration and Congressional policy expressed in a number of Executive branch and Congressional actions over the last two years.

We appreciate the opportunity to comment on the proposed capital funding regulations, and offer our continued support to HUD in this program, to achieve the shared goal of healthy, safe and affordable housing units for those served by HUD programs. Please let us know of any questions or concerns, and any way in which ICC can assist the Department in achieving its goals.