

benefit, as determined by the Office of Multifamily Housing. Proposed use of benefits shall be consistent with applicable appropriations law, the HAPC, and other requirements applicable to the original project financing, and the proposed financing terms must be reasonable in relation to bond market yields and transaction fees, as approved by the HUD Office of Multifamily Housing.

(g) Agencies shall have wide latitude in the design of specific delivery vehicles for use of McKinney Act savings, subject to HUD audit of each Agency's performance in serving the targeted income eligible population. Savings may be used for shelter costs of providing housing, rental, or owner-occupied, to very low-income households through new construction, rehabilitation, repairs, and acquisition with or without rehab, including assistance to very low-income units in mixed-income developments. These include programs designed to assist in obtaining shelter, such as rent or homeownership subsidies. Self-sufficiency services in support of very low-income housing are also eligible, and may include, but are not limited to, homeownership counseling, additional security measures in high-crime areas, construction job training for residents' repair of housing units occupied by very low-income families, and empowerment activities designed to support formation and growth of resident entities. Except for the cost of providing third-party program audit reports to HUD, eligible costs exclude consultant fees or reimbursement of Agency staff expenses, but may include fees for professional services required in the Agency's McKinney Act programs of assistance to very low-income families. Unless otherwise specified by HUD in a McKinney Agreement, savings shall be subject to the above use requirements for 10 years from the date of receipt of the savings.

(h) Refunding bonds, including interest thereon, approved under this Section shall be exempt from all taxation now or hereafter imposed by the United States, and the notification of approval of tax exemption shall not be subject to revocation by HUD. Whether refund-

ing bonds approved under this section meet the requirements of Section 103 or any other provisions of the Internal Revenue Code is not within the responsibilities of HUD to determine. Such bonds shall be prepaid during the HAPC term only under such conditions as HUD shall require.

[61 FR 14461, Apr. 1, 1996]

PART 850—HOUSING DEVELOPMENT GRANTS

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AUTHORITY: 42 U.S.C. 1437o, 3535(d).

SOURCE: 49 FR 24641, June 14, 1984, unless otherwise noted.

Subpart A—General Provisions

§ 850.1 Applicability and savings clause.

(a) *Applicability.* This part implements the Housing Development Grant Program contained in section 17 of the United States Housing Act of 1937 (42 U.S.C. 1437o). The Program authorized the Secretary to make housing development grants to support the new construction or substantial rehabilitation of real property to be used primarily for residential rental purposes. Section 289(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12839) repealed section 17 effective October 1, 1991. Section 289(a) prohibited new grants under the Housing Development Grant Program except for projects for which binding commitments had been entered into prior to October 1, 1991.

(b) *Savings clause.* Any grant made pursuant to a binding commitment entered into before October 1, 1991 will continue to be governed by subparts A

through E of this part in effect immediately before April 1, 1996, and by subpart F of this part as currently in effect.

[61 FR 7944, Feb. 29, 1996]

Subparts B–E [Reserved]

Subpart F—Project Management

§ 850.151 Project restrictions.

(a) *Owner-grantee agreement.* The grantee and the owner must enter into an agreement that requires the owner (including its successors in interest) to carry out the requirements of this section and of the grant agreement, as appropriate. The grantee-owner agreement must require the grantee to monitor (where required) and to take appropriate legal action to enforce compliance with the owner's responsibilities thereunder. The owner's compliance with its obligations under this section must be secured by a mortgage or other security instrument meeting the requirements of § 850.155. Nothing in this section shall preclude enforcement by the Federal government of grant agreement provisions, civil rights statutes, or other provisions of law that apply to the Housing Development Grant Program.

(b) *Restriction on conversion.* The owner shall not convert the units in the project to condominium ownership or to a form of cooperative ownership that is not eligible to receive a housing development grant, during the 20-year period from the date on which the units in the project are available for occupancy.

(c) *Tenant selection.* The owner shall determine the eligibility of applicants for lower income units in accordance with the requirements of 24 CFR parts 812 and 813, including the provisions of these parts concerning citizenship or eligible immigration status and income limits, and certain assistance to mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status.). The owner shall not, during the 20-year period from the date on which the units in the project are available for occupancy, discriminate against prospective tenants on the

basis of their receipt of, or eligibility for, housing assistance under any Federal, State, or local housing assistance program or, except for an elderly housing project, on the basis that they have a minor child or children who will be living with them.

(d) *Restriction on leasing assisted units.* The owner shall assure that the percentage of low-income units specified in the grant agreement is occupied, or is available for occupancy, by low-income households during the period beginning on the date on which the units in the project are available for occupancy through 20 years from the date on which 50 percent of the units are occupied. The owner may lease a low-income unit only to a tenant that is a low-income household at the time of its initial occupancy. An owner may continue to lease a low-income unit to a tenant that ceases to qualify as a low-income household only as provided in paragraph (f) of this section.

(e) *Low-income unit rent.* (1) Section 17(d)(8)(A) of the U.S. Housing Act of 1937 prohibits the rents for low-income units from exceeding "30 per centum of the adjusted income of a family whose income equals 50 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families." This paragraph describes how these maximum rent determinations are made.

(2) The maximum rents that may be charged for low-income units are based on the size of the unit by number of bedrooms, and are calculated in accordance with the following procedure. For each unit size, HUD will provide the Section 8 very low-income limits. HUD will also provide income adjustments for each unit size, consistent with 24 CFR part 813. An adjusted income amount for each unit size is calculated by the owner or grantee by subtracting the income adjustment from the Section 8 limit. The adjusted income amount is multiplied by 30 percent and divided by 12 to obtain the maximum monthly gross rent for each low-income unit. A monthly allowance for the utilities and services (excluding telephone) to be paid by the tenant is subtracted from the maximum monthly gross rent to obtain the maximum