

when the utility allowance is greater than the total tenant payment.

Housing Assistance Payments Contract ("Contract"). A written contract between a PHA and an Owner for the purpose of providing housing assistance payments to the Owner on behalf of an eligible Family.

Moderate rehabilitation. Rehabilitation involving a minimum expenditure of \$1000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to:

(1) Upgrade to decent, safe and sanitary condition to comply with the Housing Quality Standards or other standards approved by HUD, from a condition below these standards (improvements being of a modest nature and other than routine maintenance); or

(2) Repair or replace major building systems or components in danger of failure.

Owner. Any person or entity, including a cooperative, having the legal right to lease or sublease existing housing.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities.

Statement of Family responsibility. An agreement in the form prescribed by HUD, between the PHA and a Family to be assisted under the Program, stating the obligations and responsibilities of the Family.

[63 FR 23853, Apr. 30, 1998, as amended at 63 FR 46578, Sept. 1, 1998; 66 FR 28797, May 24, 2001]

§§ 882.103–882.122 [Reserved]

§ 882.123 Conversion of Section 23 Units to Section 8 and Section 23 monitoring.

(a)–(d) [Reserved]

(e) *Section 23 policies for units planned for conversion on or before September 30, 1981.* (1) PHAs shall not enter into new leases with owners for additional units nor shall they renew or extend leases with owners except consistent with the conversion schedules.

(2) Subject to the rights of families under existing leases, PHAs may continue to lease units to families under

Section 23 only on a month-to-month basis.

(3) PHAs shall conduct annual inspections of all units to determine whether the units are decent, safe and sanitary.

(4) PHAs shall certify with their requisitions to HUD for payments under the ACC that the units are decent, safe and sanitary, or the PHA shall furnish HUD with a report of the nature of the deficiencies of the units which are not so certified. If an owner's units are not decent, safe and sanitary.

(i) Where the owner is responsible under the terms of the lease for correcting the deficiencies, the PHA shall send the owner written notification requiring the owner to take specified corrective action within a specified time. The notification shall also state that, if the owner fails to comply, rent payments will be suspended. If the owner fails to comply with the first notification, he shall be notified by the PHA of the noncompliance and rent payments shall be suspended immediately. In the event of such suspension of rent payments, the PHA shall requisition a correspondingly lower ACC payment.

(ii) Where the PHA is responsible under the terms of the lease for correcting the deficiencies, the Field Office shall send written notification requiring the PHA to take specified corrective action within a specified time. The notification shall also state that, if the PHA fails to comply, HUD will make reduced payments to the PHA only in the amount of the rent due the owner. If the PHA fails to comply with the first notification, the PHA shall be notified of the noncompliance, and the PHA shall not receive any fees for performing management functions until the PHA has complied with the Field Office request and has corrected the noted deficiencies.

(f) [Reserved]

(g) *Section 23 policies for units not planned to be converted.* (1) PHAs shall not enter into new leases with owners for additional units nor shall they renew or extend leases with owners for more than one year.

(2) The provisions contained in paragraphs (e) (3) and (4) of this section shall apply.

§ 882.124

(h) *Request for rent increases.* An owner may submit to the PHA a request for rent increase because of increases in operating cost, when the rents to the owner, after adjustments based on provisions in the lease, are insufficient to provide decent, safe and sanitary housing. Such a request shall be supported by an audited financial statement, and the data shall clearly show that failure to obtain additional revenue will result in deterioration of units and loss of decent, safe and sanitary housing for low-income families. The PHA shall inspect the units to determine whether the units are decent, safe and sanitary. Where the need for an adjustment under this paragraph is shown:

(1) Subject to available contract authority and prior approval by the HUD Field Office, the PHA may grant an adjustment to the extent documented and justified for those items of expenses (excluding debt service) for which the owner is responsible under the lease.

(2) The amount of the adjustment must be reasonable when compared with similar items under the Section 8 Existing Housing program.

(3) The adjusted amount for expenses shall not exceed the result of applying the appropriate Section 8 Existing Housing Annual Adjustment Factor (24 CFR part 888) most recently published by HUD in the FEDERAL REGISTER to the appropriate expense base in effect under the lease prior to this adjustment.

(4) The adjustment shall not be retroactive to pay for costs that the owner had previously incurred.

(5) The adjustment shall be effective for a period not to exceed one year.

[44 FR 28276, Nov. 14, 1979, as amended at 60 FR 34694, July 3, 1995]

§ 882.124 Audit.

PHAs receiving financial assistance under this part are subject to audit requirements in 24 CFR part 44.

[50 FR 39091, Sept. 27, 1985; 51 FR 30480, Aug. 27, 1986]

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Subpart D—Special Procedures for Moderate Rehabilitation—Basic Policies

SOURCE: 47 FR 34379, Aug. 9, 1982, unless otherwise noted.

§ 882.401 Eligible properties.

(a) *Eligible properties.* Except as provided in paragraph (b) of this section, housing suitable for moderate rehabilitation as defined in § 882.102 is eligible for inclusion under the Moderate Rehabilitation Program. Existing structures of various types may be appropriate for this program, including single-family houses, multi-family structures and group homes.

(b) *Ineligible properties.* (1) Nursing homes, units within the grounds of penal, reformatory, medical, mental and similar public or private institutions, and facilities providing continual psychiatric, medical or nursing services are not eligible for assistance under the Moderate Rehabilitation Program.

(2) Housing owned by a State or unit of general local government is not eligible for assistance under this program.

(3) High rise elevator projects for families with children may not be utilized unless HUD determines there is no practical alternative. (HUD may make this determination for a locality's Moderate Rehabilitation Program in whole or in part and need not review each building on a case-by-case basis.)

(4) Single room occupancy (SRO) housing may not be utilized unless:

(i) The property is located in an area in which there is a significant demand for such units as determined by the HUD Field Office; and

(ii) The PHA and the unit of general local government in which the property is located approve of such units being utilized for such purpose.

(5) No Section 8 assistance may be provided with respect to any unit occupied by an Owner; however, cooperatives will be considered as rental housing for purposes of the Moderate Rehabilitation Program.

[63 FR 23854, Apr. 30, 1998, as amended at 64 FR 14832, Mar. 29, 1999]

Subpart B-C [Reserved]