

§ 884.104

24 CFR Ch. VIII (4–1–03 Edition)

under this part (and the resulting project) to be owned by a private Owner throughout the term of the Agreement and Contract where such Agreement and Contract are to be entered into between the private Owner and HUD.

Project account. The account established and maintained in accordance with § 884.104 or § 884.105.

Proposal. A proposal for a Private-Owner or PHA-Owner/PHA Project to provide newly constructed housing submitted to HUD by RHCDS on the prescribed RHCDS form.

RHCDS. The Rural Housing and Community Development Service.

Tenant rent. As defined in part 5 of this title.

Total tenant payment. As defined in part 5 of this title.

Utility allowance. As defined in part 5 of this title.

Utility reimbursement. As defined in part 5 of this title.

Very low-income family. As defined in part 5 of this title.

[41 FR 47168, Oct. 27, 1976, as amended at 42 FR 63745, Dec. 19, 1977. Redesignated at 45 FR 6909, Jan. 30, 1980, and amended at 48 FR 12710, Mar. 28, 1983; 49 FR 17449, Apr. 24, 1984; 49 FR 19947, May 10, 1984; 50 FR 38795, Sept. 25, 1985; 61 FR 5213, Feb. 9, 1996; 61 FR 13593, Mar. 27, 1996; 61 FR 47382, Sept. 6, 1996; 63 FR 46579, Sept. 1, 1998; 65 FR 16723, Mar. 29, 2000]

§ 884.104 Maximum total annual contract commitment and project account (private-owner or PHA-owner projects).

(a) *Maximum total annual contract commitment.* The maximum total annual housing assistance payments that may be committed under the Contract shall be the total of the Gross Rents for all the Contract units in the project.

(b) *Project account.* In order to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family Incomes:

(1) A Project Account shall be established and maintained in an amount as determined by the Secretary consistent with his responsibilities under Section 8(c)(6) of the Act, out of amounts by which the maximum annual Contract commitment per year exceeds amounts paid under the Contract for any year. This account shall be established and

maintained by HUD as a specifically identified and segregated account, and payment shall be made therefrom only for the purposes of (i) housing assistance payments, and (ii) other costs specifically authorized or approved by the Secretary.

(2) Whenever a HUD-approved estimate of required housing assistance payments for a fiscal year exceeds the maximum annual Contract commitment, and would cause the amount in the Project Account to be less than an amount equal to 40 percent of such maximum annual Contract commitment, HUD shall, within a reasonable period of time, take such additional steps authorized by Section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section of the Act) “the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts.”

§ 884.105 Maximum total ACC commitment and project account (private-owner/PHA projects).

(a) *Maximum total ACC commitment.* The maximum total annual contribution that may be contracted for in the ACC for a project shall be the total of the Contract Rents plus any utility allowances for all the Contract units in the project, plus a fee for the regular costs of PHA administration. HUD-approved preliminary costs for administration (including administrative costs in connection with PHA activities related to relocation of occupants) shall be payable out of this total.

(b) *Project account.* In order to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family Incomes:

(1) A Project Account shall be established and maintained, in an amount as determined by the Secretary consistent with his responsibilities under Section 8(c)(6) of the 1937 Act, out of amounts by which the maximum ACC commitment per year exceeds amounts paid

under the ACC for any year. This account shall be established and maintained by HUD as a specifically identified and segregated account, and payment shall be made therefrom only for the purposes of (i) housing assistance payments and (ii) other costs specifically authorized or approved by the Secretary.

(2) Whenever a HUD-approved estimate of required Annual Contribution exceeds the maximum ACC commitment then in effect, and would cause the amount in the Project Account to be less than an amount equal to 40 percent of such maximum ACC commitment, HUD shall, within a reasonable period of time, take such additional steps authorized by Section 8(c)(6) of the 1937 Act as may be necessary to carry out this assurance, including (as provided in that section of the Act) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

[41 FR 47168, Oct. 27, 1976, as amended at 61 FR 13593, Mar. 27, 1996; 65 FR 16723, Mar. 29, 2000]

§ 884.106 Housing assistance payments to owners.

(a) *General.* Housing Assistance Payments shall be paid to Owners for units under lease by eligible families, in accordance with the Contract and as provided in this section. These Housing Assistance Payments will cover the difference between the Contract Rent and the Tenant Rent. Where applicable, the Utility Reimbursement will be paid to the Family as an additional Housing Assistance Payment. The Contract will provide that the Owner will make this payment on behalf of the contract administrator. Funds will be paid to the Owner in trust solely for the purpose of making this additional payment. If the Family and the utility company consent, the Owner may pay the utility reimbursement jointly to the Family and the utility company or directly to the utility company. No Section 8 assistance may be provided for any unit occupied by an Owner; however, cooperatives are considered rental housing,

rather than Owner-occupied housing, for this purpose.

(b) *Vacancies during rent-up.* If a Contract Unit is not leased as of the effective date of the Contract, the Owner shall be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract, in accordance with the procedure set forth in § 884.213(b): *Provided*, That the Owner: (1) Commenced marketing and otherwise complied with § 884.211(e), (2) has taken and continues to take all feasible actions to fill the vacancy, including, but not limited to, contacting applicants on his waiting list, if any, requesting the PHA and other appropriate sources to refer eligible applicants, and advertising the availability of the unit, and (3) has not rejected any eligible applicant, except for good cause acceptable to HUD or the PHA, as the case may be.

(c) *Vacancies after rent-up.* (1) If an Eligible Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days; provided, however, That if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to HUD or as HUD may direct. (See also § 884.115). The Owner shall not be entitled to any payment under this paragraph (c)(1) unless he: (i) Immediately upon learning of the vacancy, has notified HUD or the PHA, as the case may be, of the vacancy or prospective vacancy and the reasons for the vacancy, and (ii) has taken and continues to take the actions specified in paragraphs (b) (2) and (3) of this section.

(2) If the Owner evicts an Eligible Family, he shall not be entitled to any payment under paragraph (c)(1) of this section unless the request for such payment is supported by a certification that: (i) He gave such Family a written notice of the proposed eviction, stating