

Office of the Assistant Secretary, HUD

§ 884.118

to by HUD, housing assistance payments shall continue in accordance with the Terms of the Contract.

§ 884.115 Security and utility deposits.

(a) An Owner may require Families to pay a security deposit in an amount equal to one month's Gross Family Contribution. If a Family vacates its unit, the Owner, subject to State and local laws, may utilize the deposit as reimbursement for any unpaid rent or other amount owed under the Lease. If the Family has provided a security deposit, and it is insufficient for such reimbursement, the Owner may claim reimbursement from HUD or the PHA, as appropriate, not to exceed an amount equal to the remainder of one month's Contract Rent. Any reimbursement under this section shall be applied first toward any unpaid rent. If a Family vacates the unit owing no rent or other amount under the Lease or if such amount is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

(b) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include the amount of interest payable. All security deposit funds shall be deposited by the Owner in a segregated bank account, and the balance of this account, at all times, shall be equal to the total amount collected from tenants then in occupancy, plus any accrued interest. The Owner shall comply with all State and local laws regarding interest payments on security deposits.

(c) Families shall be expected to obtain the funds to pay security and utility deposits, if required, from their own resources and/or other private or public sources.

§ 884.116 Establishment of income limit schedules; 30 percent occupancy by very-low income families.

(a) HUD will establish schedules of income limits for determining whether families qualify as Low-Income Families and Very Low-Income Families.

(b) In the leasing of units, the Owner shall comply with HUD requirements concerning the permissible income lev-

els of families, as prescribed in part 5 of this title.

[41 FR 47168, Oct. 27, 1976. Redesignated at 45 FR 6909, Jan. 30, 1980, and amended at 49 FR 19947, May 10, 1984; 65 FR 16723, Mar. 29, 2000]

§ 884.117 Disclosure and verification of Social Security and Employer Identification Numbers by owners.

To be eligible to become an owner of housing assisted under this part, the owner (other than a PHA) must meet the disclosure and verification requirements for Social Security and Employer Identification Numbers, as provided by 24 CFR part 5.

(Approved by the Office of Management and Budget under control number 2502-0204)

[54 FR 39707, Sept. 27, 1989, as amended at 61 FR 13593, Mar. 27, 1996]

§ 884.118 Responsibilities of the owner.

(a) The Owner shall be responsible (subject to post-review or audit by HUD or the PHA, as the case may be) for management and maintenance of the project. These responsibilities shall include but not be limited to:

(1) Payment for utilities and services (unless paid directly by the Family), insurance and taxes;

(2) Performance of all ordinary and extraordinary maintenance;

(3) Performance of all management functions, including the taking of applications; determining eligibility of applicants in accordance with part 5 of this title; selection of families, including verification of income, provision of Federal selection preferences in accordance with 24 CFR part 5, obtaining and verifying Social Security Numbers submitted by applicants (as provided by 24 CFR part 5), obtaining signed consent forms from applicants for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided in 24 CFR part 5), and other pertinent requirements; and determination of the amount of tenant rent in accordance with HUD established schedules and criteria;

(4) Collection of Tenant Rents;

(5) Termination of tenancies, including evictions;

(6) Preparation and furnishing of information required under the Contract;

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(7) Reexamination of family income and composition; redetermination, as appropriate, of the amount of Tenant Rent and the amount of housing assistance payment in accordance with part 5 of this title; obtaining and verifying Social Security Numbers submitted by participants, as provided by 24 CFR part 5; and obtaining signed consent forms from participants for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 5;

(8) Redetermination of amount of Tenant Rent and amount of housing assistance payment in accordance with part 5 of this title as a result of an adjustment by the PHA or HUD, as appropriate, of any applicable Utility Allowance; and

(9) Compliance with equal opportunity requirements issued by RHCDS and HUD with respect to project operation.

(b) Subject to HUD approval, any Owner may contract with any private or public entity to perform for a fee the services required by paragraph (a) of this section: *Provided*, That such contract shall not relieve the Owner of his responsibilities or obligations. However, no entity which is responsible for administration of the Contract (for example, a PHA in the case of a Private-Owner/PHA Project) may contract to perform management and maintenance of the project: *Provided, however*, That this prohibition shall not preclude management by the PHA in the event it takes possession as the result of foreclosure or assignment in lieu of foreclosure. (See, however, § 884.123(b), which permits conversion of a Private-Owner/PHA Project to a Private-Owner Project.)

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§ 884.119 Responsibility for contract administration and defaults (private-owner and PHA-owner projects).

(a) *Contract administration.* HUD is responsible for administration of the Contract. HUD may contract with another entity for the performance of some or all of its Contract administration functions.

(b) *Defaults by owner.* The Contract shall contain a provision to the effect (1) that if HUD determines that the Owner is in default under the Contract, HUD shall notify the Owner (with a copy to RHCDS) of the actions required to be taken to cure the default and of the remedies to be applied by HUD including abatement of housing assistance payments and recovery of overpayments, where appropriate; and (2) that if he fails to cure the default, HUD has the right to terminate the Contract or to take other corrective action.

[41 FR 47168, Oct. 27, 1976, as amended at 61 FR 13593, Mar. 27, 1996]

§ 884.120 Responsibility for contract administration and defaults (private-owner/PHA projects).

(a) *Contract administration.* The PHA is primarily responsible for administration of the Contract, subject to review and audit by HUD.

(b) *Defaults by PHA and/or owner.* (1) The ACC and the Contract shall contain a provision to the effect that in the event of failure of the PHA to comply with the Contract with the Owner, the Owner shall have the right, if he is not in default, to demand that HUD determine, after notice to the PHA giving it a reasonable opportunity to take corrective action, whether a substantial default exists, and if HUD determines that such a default exists, that HUD assure that the obligations of the PHA to the Owner are carried out.

(2) The ACC shall contain a provision to the effect that if the PHA fails to comply with any of its obligations (including specifically failure to enforce its rights under the Contract, in the event of any default by the Owner, to achieve compliance to the satisfaction of HUD or to terminate the Contract in whole or in part, as directed by HUD),