

§ 884.119

24 CFR Ch. VIII (4-1-03 Edition)

(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.)

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

[41 FR 47168, Oct. 27, 1976. Redesignated at 45 FR 6909, Jan. 30, 1980, and amended at 49 FR 19947, May 10, 1984; 51 FR 11227, Apr. 1, 1986; 53 FR 847, Jan. 13, 1988; 53 FR 1162, Jan. 15, 1988; 53 FR 6601, Mar. 2, 1988; 54 FR 39707, Sept. 27, 1989; 56 FR 7540, Feb. 22, 1991; 60 FR 14845, Mar. 20, 1995; 61 FR 13593, Mar. 27, 1996; 65 FR 16723, Mar. 29, 2000]

§ 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),

HUD may, after notice to the PHA giving it a reasonable opportunity to take corrective action, determine that there is a substantial default and require the PHA to assign to HUD all of the PHA's rights and interests under the Contract. In such case, HUD will continue to pay annual contributions in accordance with the terms of the ACC and the Contract.

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

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

§ 884.121 Rights of owner if PHA defaults under agreement (private-owner/PHA projects).

The ACC and the Agreement shall contain a provision to the effect that in the event of failure of the PHA to comply with the Agreement 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 assume the PHA's rights and obligations under the Agreement, and carry out the obligations of the PHA under the Agreement, including the obligation to enter into the Contract.

§ 884.122 Separate project requirement.

(a) In the case of a Private-Owner Project or a PHA-Owner Project, each Agreement and Contract shall constitute a separate project.

(b) In the case of a Private-Owner/PHA Project such project may not include more than one type of Section 8 assistance, shall be processed with a

separate ACC List and ACC Part I and shall be assigned a separate project number. All new construction units to be placed under a single Contract shall comprise a separate project. However, the field office director may designate as a single project the units to be covered by two or more such Contracts for new construction projects where:

(1) The units are placed under ACC on the same date; and

(2) Such consolidation is necessary in the interest of administrative efficiency.

§ 884.123 Conversions.

(a) *Conversion of private-owner project to private-owner/PHA project.* HUD may request the Owner of a Private-Owner Project and an appropriate PHA to agree, if they are willing, to a conversion of any such project to a Private-Owner/PHA Project if HUD determines that such conversion would promote efficient project administration.

(b) *Conversion of private-owner/PHA project to private-owner project.* The Private Owner and the PHA, in the case of a Private-Owner/PHA Project, may request HUD to agree to a conversion of any such project to a Private-Owner or PHA-Owner Project. HUD shall agree to such conversion if it determines it to be in the best interest of the project.

§ 884.124 Audit.

(a) Where a State or local government is the eligible owner of a project, or is a contract administrator under § 884.119 or § 884.120, receiving financial assistance under this part, the audit requirements in 24 CFR part 44 shall apply.

(b) Where a nonprofit organization is the eligible owner of a project, receiving financial assistance under this part, the audit requirements in 24 CFR part 45 shall apply.

[50 FR 39092, Sept. 27, 1985; 51 FR 30480, Aug. 27, 1986, as amended at 57 FR 33257, July 27, 1992]

Subpart B—Project Development and Operation

§ 884.212 Project completion.

(a) *FmHA certifications upon completion.* Upon completion of the project,