

§ 886.313

in the contract rents shall not result in material differences between the rents charged for assisted and comparable unassisted units. Contract rents may be adjusted upward or downward as may be appropriate; however, in no case shall the adjusted rents be less than the contract rents on the effective date of the contract, provided there was no fraud or mistake adverse to the Department's interest in determining the initial contract rent.

(c) *Special adjustments.* Special adjustments in the contract rents shall be requested in writing by the owner and may be authorized by HUD to the extent HUD determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the contract units which have resulted from substantial general increases in real property taxes, utility rates or similar costs (i.e., assessments and utilities not covered by regulated rates) which are not adequately compensated for by the adjustment authorized by paragraph (b) of this section.

(d) *Comparability between assisted and unassisted units.* Notwithstanding any other provisions of this subpart, adjustments as provided in this section shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by HUD: *Provided, however,* That this limitation shall not be construed to prohibit differences in rents between assisted and comparable unassisted units to the extent that such differences may have existed with respect to the initial contract rents assuming no fraud or mistake adverse to the Department's interest.

(e) *Addendums to contract and leases.* Any adjustment in contract rents shall be incorporated into the contract and leases by dated addendums to the contract and leases establishing the effective date of the adjustment.

§ 886.313 Other Federal requirements.

Participation in this program requires:

(a) Compliance with (1) title VI of the Civil Rights Act of 1964, title VIII of the Civil Rights Act of 1968, Executive Orders 11063 and 11246, and Section 3 of the Housing and Urban Development

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Act of 1968, and (2) all rules, regulations, and requirements issued pursuant thereto.

(b) Submission of an approvable Affirmative Fair Housing Marketing Plan.

(c) For projects where rehabilitation is to be completed by or at the direction of the owner, compliance with:

(1) The Clean Air Act and Federal Water Pollution Control Act;

(2) Where the property contains nine or more units to be assisted, the requirement to pay not less than the wage rates prevailing in the locality, as predetermined by the Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 276a-276a-5) to all laborers and mechanics (other than volunteers under the conditions set out in 24 CFR part 70) who are employed in the rehabilitation work, and the labor standards provisions contained in the Contract Work Hours and Safety Standards Act, Copeland Anti-Kickback Act, and implementing regulations of the Department of Labor.

(3) Section 504 of the Rehabilitation Act of 1973;

(4) The National Historic Preservation Act (Pub. L. 89-665);

(5) The Archeological and Historic Preservation Act of 1974 (Pub. L. 93-291);

(6) Executive Order 11593 on Protection and Enhancement of the Cultural Environment, including the procedures prescribed by the Advisory Council on Historic Preservation at 36 CFR part 800;

(7) The National Environmental Policy Act of 1969;

(8) The Flood Disaster Protection Act of 1973;

(9) Executive Order 11988, Flood Plains Management;

(10) Executive Order 11990, Protection of Wetlands.

[44 FR 70365, Dec. 6, 1979, as amended at 57 FR 14760, Apr. 22, 1992]

§ 886.314 Financial default.

In the event of a financial default under the project mortgage, HUD shall have the right to make subsequent housing assistance payments to the mortgagee until such time as the default is cured, or until some other time