

the permanent financing is lower than the anticipated debt service on which the Contract Rents were based, the initial Contract Rents, or the Contract Rents currently in effect, must be reduced commensurately, and the amount of the savings credited to the project account.

(e) *Increase of Contract Rents.* This paragraph (e) applies only if the HFA is using its set-aside for the project and it is processed under subpart D. If the actual debt service to the owner under the permanent financing is higher than the anticipated debt service on which the Contract Rents are based, the initial Contract Rents or the Contract Rents currently in effect may, if sufficient contract and budget authority is available, be increased commensurately based on the certification submitted under paragraph (c) of this section. The amount of this increase may not exceed the amount of the Financing Cost Contingency (FCC) authorized but not reserved for the project at the time the proposal is approved. The adjustment must not exceed the amount necessary to reflect an increase in debt service (based on the difference between the projected and actual terms of the permanent financing) resulting from an increase over the projected interest rate of not more than:

- (1) One and one-half percent if the projected override was three-fourths of one percent or less, or
- (2) One percent if such projected override was more than three-fourths of one percent but not more than one percent, or
- (3) One-half of one percent if such projected override was more than one percent.

(f) *Recoupment of savings in financing costs.* In the event that interim financing is continued after the first year of the term of the Contract and the debt service of the interim financing for any period of three months after such first year is less than the anticipated debt service under the permanent financing on which the Contract Rents were based, an appropriate amount reflecting the savings in financing cost will be credited by HUD to the Project Account and withheld from housing assistance payments payable to the owner. If during the course of the same

year there is any period of three months in which the debt service is greater than the anticipated debt service under the projected permanent financing, an adjustment will be made so that only the net amount of savings in debt service for the year is credited by HUD to the Project Account and withheld from housing assistance payments to the owner. No increased payments will be made to the owner on account of any net excess for the year of actual interim debt service over the anticipated debt service under the permanent financing. Nothing in this paragraph will be construed as requiring a permanent reduction in the Contract Rents or precluding adjustments of Contract Rents in accordance with paragraphs (d) or (e) of this section.

(g) *Compliance with other regulations.* The HFA must also submit a certification specifying:

- (1) That the terms of financing, the amount of the obligations issued with respect to the project and the use of the funds will be in compliance with any regulation governing the issuance of the obligations, e.g., Department of the Treasury regulations regarding arbitrage or HUD regulations regarding Tax Exemption of Obligations of Public Housing Agencies (24 CFR part 811), and
- (2) That the override, if any, on the permanent financing for the project will not be greater than the projected override nor greater than the override allowed for the borrowing as a whole under applicable regulations, e.g., the Department of Treasury regulations regarding arbitrage. The certifications required under 24 CFR 811.107(a)(2) will be sufficient to meet the certification requirements of this paragraph (g).

#### § 883.310 Property standards.

(a) *New Construction.* Projects must comply with:

- (1) [Reserved]
- (2) In the case of manufactured homes, the Federal Manufactured Home Construction and Safety Standards, pursuant to Title VI of the Housing and Community Development Act of 1974, and 24 CFR part 3280;
- (3) In the case of congregate or single room occupant housing, the appropriate HUD guidelines and standards,

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(4) HUD requirements pursuant to Section 209 of the Housing and Community Development Act of 1974 for projects for the elderly or the handicapped;

(5) HUD requirements pertaining to noise abatement and control; and

(6) Applicable state and local laws, codes, ordinances, and regulations.

(b) *Substantial Rehabilitation*. Projects must comply with:

(1) [Reserved]

(2) In the case of congregate or single room occupant housing, the appropriate HUD guidelines and standards,

(3) HUD requirements pursuant to Section 209 of the HCD Act for projects for the elderly or the handicapped;

(4) HUD requirements pertaining to noise abatement and control;

(5) The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, H, and R of this title.

(6) Applicable State and local laws, codes, ordinances, and regulations.

(c) *Smoke detectors*. (1) *Performance requirement*. After October 30, 1992, each dwelling unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit. If the unit is occupied by hearing-impaired persons, smoke detectors must have an alarm system, designed for hearing-impaired persons, in each bedroom occupied by a hearing-impaired person.

(2) *Acceptability criteria*. The smoke detector must be located, to the extent practicable, in a hallway adjacent to a bedroom, unless the unit is occupied by a hearing-impaired person, in which case each bedroom occupied by a hearing-impaired person must have an alarm system connected to the smoke detector installed in the hallway.

[45 FR 6889, Jan. 30, 1980, as amended at 50 FR 9269, Mar. 7, 1985; 57 FR 33851, July 30, 1992; 63 FR 46579, Sept. 1, 1998; 64 FR 50227, Sept. 15, 1999]

**§ 883.313 Audit.**

(a) Where housing assistance under the Section 8 Program is provided for projects developed by State agencies,

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these agencies shall follow audit requirements in 24 CFR part 44.

(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]

**Subparts D-E [Reserved]**

**Subpart F—Housing Assistance Payments Contract**

**§ 883.601 Applicability.**

The provisions of this subpart apply to new construction and substantial rehabilitation projects using contract authority allocated under subpart B, Allocation and Assignment of Contract Authority, or processed and constructed under subpart D, Fast Track Procedures.

**§ 883.602 The contract.**

(a) *Contract*. The Housing Assistance Payments Contract sets forth rights and duties of the owner and State Agency with respect to the project and the Housing Assistance payments.

(b) *Housing Assistance Payments to Owners under the Contract*. The Housing Assistance Payments made under the Contract are:

(1) Payments to the owner to assist eligible families leasing assisted units, and

(2) Payments to the owner for vacant assisted units (“vacancy payments”) if the conditions specified in § 880.611 of this chapter are satisfied.

The housing assistance payments are made monthly by the State Agency upon proper requisition by the owner, except payments for vacancies of more than 60 days, which are made semi-annually by the Agency upon proper requisition by the owner.

(c) *Amount of Housing Assistance Payments to the Owner*. (1) The amount of the housing assistance payments made to the owner of a unit being leased by an eligible family is the difference between the contract rent for the unit and the tenant rent payable by the family.