

§ 886.124

24 CFR Ch. VIII (4-1-04 Edition)

provided in the prescribed forms. Copies of these reports shall be kept on file by the Owner for at least three years.

(c) *Periodic inspections.* HUD will inspect or cause to be inspected a reasonable sample of contract units at least annually and at such other times as may be necessary to assure that the owner is meeting his contractual obligations. HUD will take into account complaints by occupants and any other information coming to its attention in scheduling inspections and shall notify the owner of its determination.

(d) *Units not Decent, Safe, and Sanitary.* If HUD notifies the Owner that he has failed to maintain a dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, HUD may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments, even if the Family continues to occupy the unit.

[42 FR 5603, Jan. 28, 1977, as amended at 43 FR 60157, Dec. 26, 1978]

§ 886.124 Reexamination of family income and composition.

(a) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once each year. Upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 5 of this title and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 5, subpart B, of this title. At the first regular reexamination after June 19, 1995, the owner shall follow the requirements of part 5, subpart E, of this title concerning obtaining and processing evidence of citizenship or el-

igible immigration status of all family members. Thereafter, at each regular reexamination, the owner shall follow the requirements of part 5, subpart E, of this title concerning verification of the immigration status of any new family member.

(b) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the owner receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See part 5, subpart B, of this title for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 5, subpart B, of this title. At any interim reexamination after June 19, 1995, when there is a new family member, the owner shall follow the requirements of part 5, subpart E, of this title concerning obtaining and processing evidence of citizenship or eligible immigration status of the new family member.

(c) *Continuation of housing assistance payments.* A family's eligibility for housing assistance payments will continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with program requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure

and verification requirements for Social Security Numbers, as provided by part 5, subpart B, of this title, or failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by part 5, subpart B, of this title. For provisions requiring termination of assistance for failure to establish citizenship or eligible immigration status, see part 5, subpart E, of this title for provisions concerning certain assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, and for provisions concerning deferral of termination of assistance

[56 FR 7542, Feb. 22, 1991, as amended at 60 FR 14846, Mar. 20, 1995; 61 FR 11119, Mar. 18, 1996; 65 FR 16723, Mar. 29, 2000]

§ 886.125 Overcrowded and underoccupied units.

If HUD determines that a contract unit assisted under this part is not Decent, Safe, and Sanitary by reason of increase in Family size or that a Contract unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to such unit will not be abated, unless the Owner fails to offer the Family a suitable unit as soon as one becomes vacant and ready for occupancy. The Owner may receive housing assistance payments for the vacated unit if he complies with the requirements of § 886.109.

§ 886.126 Adjustment of utility allowances.

When the owner requests HUD approval of adjustment in Contract Rents under § 886.112, an analysis of the project's Utility Allowances must be included. Such data as changes in utility rates and other facts affecting utility consumption should be provided as part of this analysis to permit appropriate adjustments in the Utility Allowances. In addition, when approval of a utility rate change would result in a cumulative increase of 10 percent or more in the most recently approved Utility Allowances, the owner must ad-

vised the Secretary and request approval of new Utility Allowances.

(Approved by the Office of Management and Budget under control numbers 2502-0352 and 2502-0354)

[51 FR 21863, June 16, 1986]

§ 886.127 Lease requirements.

(a) *Term of lease.* (1) The term of a lease, including a new lease or a lease amendment, executed by the owner and the family must be for at least one year, or the remaining term of the contract if the remaining term of the contract is less than one year.

(2) During the first year of the lease term, the owner may not terminate the tenancy for "other good cause" under 24 CFR 247.3(a)(3), unless the termination is based on family malfeasance or nonfeasance. For example, during the first year of the lease term, the owner may not terminate the tenancy for "other good cause" based on the failure by the family to accept the offer of a new lease.

(3) The lease may contain a provision permitting the family to terminate the lease on 30 days advance written notice to the owner. In the case of a lease term for more than one year, the lease must contain this provision.

(b) *Required and prohibited provisions.* The lease between the owner and the family must comply with HUD regulations and requirements, and must be in the form required by HUD. The lease may not contain any of the following types of prohibited provisions:

(1) *Admission of guilt.* Agreement by the family (i) to be sued, (ii) to admit guilt, or (iii) to a judgment in favor of the owner, in a court proceeding against the family in connection with the lease.

(2) *Treatment of family property.* Agreement by the family that the owner may take or hold family property, or may sell family property, without notice to the family and a court decision on the rights of the parties.

(3) *Excusing owner from responsibility.* Agreement by the family not to hold the owner or the owner's agents responsible for any action or failure to act, whether intentional or negligent.

(4) *Waiver of notice.* Agreement by the family that the owner does not need to give notice of a court proceeding