

**§ 886.313**

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 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;

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(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 agreeable to the mortgagee and approved by HUD.

**§ 886.315 Security and utility deposits.**

(a) *Amount of deposits.* If at the time of the initial execution of the Lease the Owner wishes to collect a security deposit, the maximum amount shall be the greater of one month's Gross Family Contribution or \$50. However, this amount shall not exceed the maximum amount allowable under State or local law. For units leased in place, security deposits collected prior to the execution of a Contract which are in excess of this maximum amount do not have to be refunded until the Family is expected to pay security deposits and utility deposits from its resources and/or other public or private sources.

(b) *When a Family vacates.* If a Family vacates the unit, the Owner, subject to State and local law, may use the security deposit as reimbursement for any unpaid Family Contribution or other amount which the Family owes under the Lease. If a Family vacates the unit owing no rent or other amount under the Lease consistent with State or local law or if such amount is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance to the Family.

(c) *Interest payable on deposits.* In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include the amount of interest payable. The Owner shall comply with all State and local laws regarding interest payments on security deposits.

(d) *Insufficient deposits.* If the security deposit is insufficient to reimburse the Owner for the unpaid Family Contribution or other amounts which the Family owes under the Lease, or if the

Owner did not collect a security deposit, the Owner may claim reimbursement from HUD for an amount not to exceed the lesser of: (1) The amount owed the Owner, (2) two months' Contract Rent, minus, in either case, the greater of the security deposit actually collected or the amount of security deposit the owner could have collected under the program (pursuant to paragraph (a) of this section). Any reimbursement under this section must be applied first toward any unpaid Family Contribution due under the Lease and then to any other amounts owed. No reimbursement shall be claimed for unpaid rent for the period after the family vacates.

§§ 886.316–886.317 [Reserved]

§ 886.318 Responsibilities of the owner.

(a) *Management and maintenance.* The owner shall be responsible for the management and maintenance of the project in accordance with requirements established by HUD. 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 24 CFR part 5 of this title; selection of families, including verification of income, obtaining and verifying Social Security Numbers submitted by applicants (as provided by part 5, subpart B, of this title), obtaining signed consent forms from applicants for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided in part 5, subpart B, of this title), 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) Preparation and furnishing of information required under the contract;

(6) Reexamination of family income, composition, and extent of exceptional medical or other unusual expenses; redeterminations, as appropriate, of the amount of Tenant Rent and 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 CFR part 750; and obtaining signed consent forms from participants for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by part 5, subpart B, of this title.

(7) Redeterminations of the amount of Tenant Rent and the amount of housing assistance payment in accordance with part 5 of this title as a result of an adjustment by HUD of any applicable utility allowance;

(8) Notifying families in writing when they are determined to be qualified for assistance under this subpart where they have not already been notified by HUD prior to sale;

(9) Reviewing at least annually the allowance for utilities and other services;

(10) Compliance with equal opportunity requirements; and

(11) Compliance with Federal requirements set forth in § 886.313(c).

(b) *Contracting for Services.* 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 shift any of the owner's responsibilities or obligations.

(c) *HUD review.* The owner shall permit HUD to review and audit the management and maintenance of the project at any time.

(d) *Submission of financial and operating statements.* After execution of the Contract, the owner must submit to HUD:

(1) Financial information in accordance with 24 CFR part 5, subpart H; and

(2) Other statements as to project operation, financial conditions and occupancy as HUD may require pertinent to